

1st Div. No. 840 Baldwin Circuit Court
OLD SPANISH FORT DEVELOPMENT CO. ET AL. In Equity
Appellant. S

vs.

J. D. MORRIS and D. L. MORRIS
Appellee. S

Dear ~~SIX~~ Mrs. Duck:-

The Certificate of Appeal in the above case
was today received and filed in this office.

Yours truly,

J. RENDER THOMAS,
Clerk Supreme Court.

MAY 21st, 195 9.



THIS SIDE OF CARD IS FOR ADDRESS

Mrs. Alice J. Duck
Register Baldwin Circuit Court
Box 239
Bay Minette, Alabama

Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. 4469

J.D. MORRIS and D.L. MORRIS,
Complainant.

vs.

OLD SPANISH FORT DEVELOPMENT COMPANY, a corp, et al
Respondent.

I, Alice J. Duck Register of the Circuit Court in Equity,
Baldwin County, Alabama, hereby certify that in the cause of
J.D. MORRIS, and D.L. MORRIS Complainant,

vs.

OLD SPANISH FORT DEVELOPMENT, COMPANY, A corporation, et al Respondent,

which was tried and determined in this Court on the 21st day of

April 1959, in which there was a decree in favor of the

Complainants

On the 19 day of May 1959, the Respondents

took an appeal to the

Supreme Court of Alabama, to be holden of and for said State.

I further certify that J.B. Blackburn
filed security for cost of appeal, to the Supreme Court,

on the 19 day of May 1959, and that

J.B. Blackburn,

are sureties on the appeal bond.

I further certify that notice of said appeal was on the

day of _____ 19____, served on

as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the _____ day of

May 1959.



Register of the Circuit Court In Equity of

Baldwin County, Alabama.

STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

SUPREME COURT OF ALABAMA

TO: HONORABLE WILLIAM C. TAYLOR, CIRCUIT JUDGE, MOBILE, ALABAMA.

It appearing that a regular term of the Circuit Court of Baldwin County is in session, and that Honorable Hubert M. Hall, Judge of the 28th Judicial Circuit of Alabama, is disqualified from trying the following styled case:

J.D. MORRIS ET AL
V.
OLD SPANISH FORT DEVELOPMENT CO., A Corp., et al
no. 4469

NOW PENDING on the Equity docket of the Circuit Court of Baldwin County, and it further appearing that it is necessary to appoint another judge to try said case, and the public good requiring it:

It is ordered that the above styled case be assigned to you, and you are directed to preside as circuit judge in the trial of the case herein set out, with full authority of the regular judge of said circuit and it is further ordered that your authority in the trial of the above-styled case is continuous until final disposition thereof.

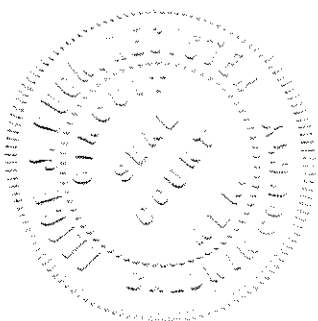
It is directed that this order be spread upon the minutes of the court.

Done at Chambers, this 5th day of January, 1959.

J. Ed Livingston /s/
J. ED LIVINGSTON
Chief Justice

I, Alice J. Duck, Register in Equity in the Circuit Court of Baldwin County, Alabama, do hereby Certify that the foregoing is a true and correct copy of the Order Appointing Judge William C. Taylor, as Judge in the case of: J.D. MORRIS, et al, vs. OLD SPANISH FORT DEVELOPMENT CO., A Corp., et al, No. 4469.

Witness my hand and seal this 22 day of April, 1959



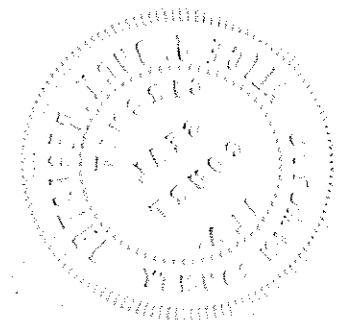
Alice J. Duck
Register in Equity,
Baldwin County, Alabama.

The first of these is the fact that the
 government has been able to maintain a
 high level of employment since the war.
 This is due to a number of factors, including
 the fact that the government has been able to
 maintain a high level of investment in
 infrastructure, and the fact that the
 government has been able to maintain a high
 level of investment in education and
 health care.

Recorded
 in Minute Book - 7
 page 429

The second of these is the fact that the
 government has been able to maintain a high
 level of investment in infrastructure, and
 the fact that the government has been able
 to maintain a high level of investment in
 education and health care.

The third of these is the fact that the
 government has been able to maintain a high
 level of investment in infrastructure, and
 the fact that the government has been able
 to maintain a high level of investment in
 education and health care.



DECEMBER 21, 1961

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1961-62

1st Div. 840

The Merchants National Bank of Mobile, et al.

vs.

J. D. Morris, et al.

Baldwin Circuit Court, In Equity

Come the parties by attorneys, and the record and matters therein assigned for errors being submitted on briefs on the original transcript and supplement thereto and being duly examined and understood by the Court, it is considered that in the record and proceedings of the Circuit Court there is manifest error.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that the decrees of the Circuit Court overruling the demurrers of the respondents to the bill of complaint be and the same are hereby reversed and annulled, and this Court proceeding to render the decree that the Circuit Court should have rendered doth CONSIDER, ORDER, ADJUDGE AND DECREE as follows:

(1) That the demurrer of the respondent, The Merchants National Bank of Mobile, a national banking association, to the bill of complaint be and the same is hereby sustained;

(2) That the demurrers of the respondents, The Merchants National Bank of Mobile, a national banking association, as Trustee, George E. Fuller and Patricia B. Fuller, to the bill of complaint be and the same are hereby sustained.

2.

The Court is of the opinion that the bill of complaint cannot be amended so as to give it equity.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the bill of complaint be and the same is hereby dismissed.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the costs of appeal of this Court and all of the costs of the Circuit Court be and the same are hereby taxed against the appellees, J. D. Morris and D. L. Morris, for which costs let execution issue.

I, J. Render Thomas, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appears of record in said Court. WITNESS my hand this 31 day of Dec 1961

J. Render Thomas
Clerk, Supreme Court of Alabama

J. D. MORRIS and)	
D. L. MORRIS,)	
)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
)	
OLD SPANISH FORT DEVELOPMENT	)	IN EQUITY
COMPANY, a corporation, ET AL.,	)	NO. 4469
)	
Respondents.)	

MOTION TO SET ASIDE ORDER STAYING EXECUTION

Now come the respondents, The Merchants National Bank of Mobile, a National Banking Association, as Trustee for George E. Fuller and Patrice B. Fuller; George E. Fuller and Patrice B. Fuller, each separately and severally, and move the court to annul and set aside the ex parte order made in this cause, dated January 16, 1959, staying execution of the judgment in the case of The Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patrice B. Fuller, plaintiffs, vs. James Morris and Leon Morris, defendants, Civil Cause No. 974, and as grounds of such motion assign, separately and severally, the following:

1. The said order is void.
2. The said order is void because it was issued without requiring the complainants to enter into a bond for the protection of the above named respondents, who were the plaintiffs in the ejectment suit in which execution was stayed, as required by Equity Rule No. 66.
3. No authority is vested in this court in this proceeding to stay execution of the judgment in the said ejectment suit without requiring the complainants in this cause to enter into bond, as required by Equity Rule No. 66.
4. The said order is void because the judgment which was stayed thereby was affirmed by the Supreme Court of Alabama on May 22, 1958 (267 Ala. 542, 103 So.2d 310), and no permission has been granted by the Supreme Court of Alabama to the complainants to

file the Bill of Review in this case.

Filed
Feb. 13, 1959

J. B. Blackburn
McCORVEY, TURNER, JOHNSTONE, ADAMS AND MAY
By Ben H. Turner
(3)
Attorneys for above named respondents

Complainants aver that if they are mistaken in the allegation that Margaret Francisco acquired and owned the legal title to the 4-acre parcel described in Paragraph Two of this Bill; and that Josephine Francisco Alexander acquired legal title to said parcel of land by inheritance from Margaret Francisco, her mother, and that John Alexander acquired legal title to said 4-acre parcel by inheritance from his mother, Josephine Francisco Alexander, then they allege that John Alexander acquired legal title to said 4-acre parcel by prescription from the time his grandmother Margaret Francisco obtained the deed from Augustus W. Sibley on May 18, 1874, to the date of the filing of said bill to quiet title on, to-wit, the 29th day of May, 1927, a period of over 50 years during which the title of Margaret Francisco, Josephine Francisco Alexander and John Alexander and right to possession was not disputed and the right of Old Spanish Fort Development Company was not admitted or recognized by Margaret Francisco, Josephine Francisco Alexander or John Alexander whom complainants claim under; that if they are mistaken in alleging that John Alexander acquired the legal title to said 4-acre parcel of land by prescription as last hereinabove alleged, Complainants aver that said John Alexander acquired legal title to said 4-acre parcel by over 10 years continuous, open, notorious, adverse possession of his predecessors in title, Margaret Francisco, Josephine Francisco Alexander and of said John Alexander to the date said bill to quiet title was filed by Old Spanish Fort Development Company and the decree in said suit rendered on, to-wit, October 10, 1927.

Complainants further aver that if they are mistaken in alleging that John Alexander acquired title by virtue of the deed

from Augustus W. Sibley to Margaret Francisco and by inheritance from his mother Josephine Francisco Alexander, the facts are that during the pendency of the aforesaid bill to quiet title John Alexander remained in possession of said 4-acre parcel and was never removed from possession of said 4-acre parcel after the decree in said cause was rendered, but continued and remained in possession thereof until he sold and conveyed said 4-acre parcel to Complainants on, to-wit, November 8, 1941, and Complainants aver that they entered into possession of said 4-acre parcel under said warranty deed from John Alexander to them, and for more than 20 years thereafter have been continuously in open, notorious, adverse possession of said 4-acre parcel claiming to own the same and using the same without recognition of any right of Old Spanish Fort Development Company in or to said 4-acre parcel or admission of liability to said Old Spanish Fort Development Company for or on account of their possession or use of said 4-acre parcel, and complainants aver that they have acquired legal title to said 4-acre parcel by prescription.

And Complainants aver that if they are mistaken in alleging that they have had adverse possession of said 4-acre parcel for 20 years or more, as above alleged, the fact is that Complainants have acquired title by more than 10 years of open, continuous, adverse possession under the color of title afforded by said deed to them from John Alexander, and by virtue of such adverse possession for over 10 years and the assessment and payment of taxes by Complainants for more than 10 consecutive years preceding the filing of this bill.

ELEVEN

Complainants aver that at the time of said decree of October 10, 1927, copy of which is hereto attached as Exhibit B, John Alexander was in actual possession of and was the owner of said 4-acre parcel of land that after said decree he remained in open, notorious and continuous possession thereof, without knowledge or notice of said decree, claiming to own the same under the aforesaid deed to Margaret Francisco, as her heir at law, until he conveyed and delivered possession of said 4-acre parcel to Complainants, and Complainants aver that since the conveyance of John Alexander to them in November, 1941, they have at all times been and still are in possession of said 4-acre parcel; that Complainants are now at the time of the filing of this Bill of Complaint in possession of said 4-acre parcel described in Paragraph 2 hereof, claiming to own the same in fee simple, that the Defendants above named as such claim some right, title or interest in or to said 4-acre parcel and Complainants call upon them and each of them to set forth his, her or its title, claim, interest in or encumbrance upon said 4-acre parcel of land, and how and by what instrument the same is derived and created.

Complainants further aver that they are in possession of the 4-acre parcel described in Paragraph Two hereof, claiming to own the same in fee simple, that Respondents claim or are reputed to claim some right, title or interest therein under and by virtue of the aforesaid decree of October 10, 1927, or otherwise.

PRAYER FOR PROCESS

To the end, therefore, that Equity be done in the premises, Complainants pray that Old Spanish Fort Development Company, a corporation, The Merchants National Bank, a National Banking Association, individually and as Trustee, George E. Fuller and Patricia B. Fuller, be made parties respondent to this, their Amended Bill of Complaint, and that process in accordance with the course and practice of this Honorable Court be issued to and served upon them.

PRAYER FOR RELIEF

Complainants respectfully pray that the decree of October 10, 1927, be set aside and annulled insofar as it purports to adjudge that Old Spanish Fort Development Company had or has any title in or to the 4-acre parcel of land referred to and described in Paragraph Two of this Bill and insofar as it undertook to adjudicate and decree that John Alexander had no title in or to Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, and that Respondents and each of them be restrained from asserting and claiming any right, title or interest in or to said 4-acre parcel of land described in Paragraph Two hereof under and by virtue of said decree and from seeking to enforce said decree in any manner or form whatsoever.

Complainants further pray that so much of the decree of October 10, 1927 be set aside, annulled and stricken from said decree as undertakes and purports to adjudge and decree (1) that the Court ascertains and decrees that said cause is at issue. (2) That Complainant, Old Spanish Fort Development Company, a corporation, was, at the time it filed its bill in said cause, and on the date of the decree in said cause, "in the actual and peaceable possession of all of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, known as the Alexis Truillet or the Alexis Trouillet Grant, and all of Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, known as the Lefroy Truillet Grant, except a certain three acre tract along the North boundary line of said Section 39 described as follows." (3) That the Complainant, Old Spanish Fort Development Company, holds and owns the complete equitable and legal title to "all of Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, excepting a certain three acre tract along the North boundary line of said Section 39 described in the bill of Complaint." (4) That Complainant, Old Spanish Fort Development Company now holds and owns the complete equitable and legal title to all of said Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, except said 3 acre tract described in the complaint. (5) That the Complainant, Old Spanish Fort Development Company, is the true and lawful owner in fee simple of "all of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama" (6) That the title thereto is in the Complainant Old Spanish Fort Development Company. (7) That the Complainant, Old Spanish Fort Development Company have judgment as prayed for in its bill of complaint against any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof. (8) So much of

said decree, as by implication finds and decrees that the 4-acre parcel of land described in Paragraph Two hereof is (was) in the actual and peaceable possession of Complainant, Old Spanish Fort Development Company, at the time it filed its said bill of complaint and at the time of the entering of said decree. (9) That the title is vested in Old Spanish Fort Development Company to all of said Section 38, Township 4 South, Ranges 1 and 2 East, and Section 39, Township 4 South, Ranges 1 and 2 East, excepting certain indefinite and uncertain parcels in said Section 39, but not excepting the 4-acre parcel in Section 38, hereinabove described in Paragraph Two hereof. (1) That the title to all of said Section 38 and said Section 39 except certain unidentified and indefinite parcels in Section 39, but including and not excepting the 4-acre parcel in Section 38 described in Paragraph Two hereof, is in the Complainant, Old Spanish Fort Development Company. (11) That Complainants in said bill to quiet title have judgment as prayed for in the bill of complaint against the land and against all persons, firms and corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, and that the claim or claims of any and all persons, firms or corporations claiming title to, interest in or lien or encumbrance on said lands or any part thereof.

And Complainants further pray that it be decreed by this Honorable Court that the portion of said decree of October 10, 1927, which purports and undertakes to adjudge and decree that the title adjudged to be in Old Spanish Fort Development Company shall inure to the benefit of all persons who derive title to said lands, or any interest therein from or through the Complainant, Old Spanish Fort Development Company, be annulled, set aside and stricken from said decree.

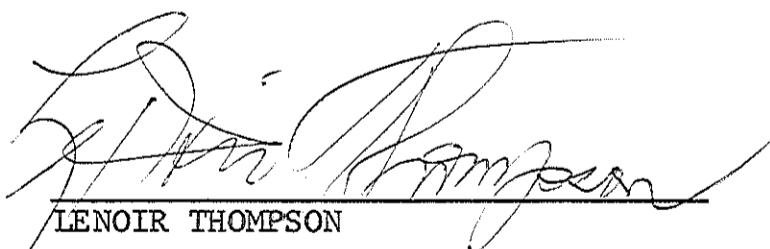
Complainants further pray that this Honorable Court examine the allegations of the complaint in said bill to quiet title; the record of the issuance and service or process or the publication of notice and determine whether the Court in said proceedings acquired jurisdiction to render a decree quieting title to said 4-acre parcel described in Paragraph Two hereof.

And Complainants further pray this Honorable Court be pleased to enter a declaratory judgment finding and decreeing the meaning and effect of said decree of October 10, 1927, and determining its effect on the claim or title of Margaret Francisco, or the claim or title of Josephine Francisco Alexander, and on the claim or title of John Alexander; also whether the said decree was binding on John Alexander, or on Complainants as purchasers from him; also whether said decree was binding on Complainants and whether said decree kept Complainants from acquiring title to said 4-acre parcel by prescription or by adverse possession as alleged in this bill; and also to ascertain and decree whether the said decree had the effect of establishing in Old Spanish Fort Development Company the title to the 4-acre parcel described in Paragraph Two hereof.

And Complainants pray that this Honorable Court ascertain and decree (1) whether said decree of October 10, 1927, was valid or void (2) if found to be valid to any extent, then the extent to which the same is valid; (3) whether said decree affected the title to the 4-acre parcel of land described in Paragraph Two hereof; (4) Whether said decree affected the title or possession of John Alexander; (4) whether said decree affected the title acquired by Complainants from said John Alexander; (5) whether the proceedings to quiet title in said cause was a valid proceeding to quiet title

to the 4-acre parcel of land described in Paragraph Two of this bill; (6) whether Complainants after said decree acquired title to said 4-acre parcel by prescription or by adverse possession; (7) whether said decree affects the title acquired by Complainants from John Alexander, or by adverse possession or by prescription, and, if so, in what respect; (8) whether said decree operated to prevent and was effective to prevent the acquisition of title to said 4-acre parcel of land described in Paragraph Two hereof either by adverse possession or by prescription.

Complainants further pray that this Honorable Court on final hearing of this cause be pleased to quiet Complainants' title to said 4-acre parcel of land, particularly against said decree of October 10, 1927, and be further pleased to decree that said decree of October 10, 1927, be set aside and annulled as a cloud on Complainants' title, and Complainants pray for such other and different relief as they may be entitled to receive, the premises considered.


LENOIR THOMPSON

CAFFEY, GALLALEE & CAFFEY

By 
Solicitors for Complainants

FILED
MAR 12 1932
ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA

COUNTY OF MOBILE

Personally appeared before me, the undersigned authority,
Morris, who upon oath deposes and says that he is one of
the Complainants in the above entitled cause and that the allega-
tions of the above and foregoing amended complaint are true.

J. L. Morris.

Subscribed and sworn to before me
this 10th day of March, 1962.

 Ralph P. Loveless
Notary Public

RALPH P. LOVELESS
NOTARY PUBLIC
STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES SEPT. 16, 1963

Given under my hand and seal of office, this 9th day of April, 1956.

W. R. STUART,
Judge of Probate.

MR. BLACKBURN: Next, we offer in evidence a certified copy of the original bill of complaint in the case of Old Spanish Fort Development Company, a Corporation, Complainant, vs. Section 38, Township 4 South, Ranges 1 and 2 East in Baldwin County, Alabama, and against any and all persons, firms or corporations claiming any title to, interest in, or liens or encumbrances on said lands, or any part thereof, and ask that the same be identified as Plaintiff's Exhibit 7.

PLAINTIFF'S EXHIBIT 7. APRIL 10, 1956.

MR. BEEBE: May it please the Court, before the bill is offered I would like for it to be read to the Court so that the Court may have before it what it does say.

THE COURT: All right -- Can't you cut down to the pertinent parts?

MR. BEEBE: I call your attention to it --

THE COURT: Let's do that.

MR. BEEBE: We object to the introduction of this Complaint because, FIRST, it does not name any of the parties alleged therein to have had an interest as party defendants; SECOND, it does not pray for process against the parties named therein; THIRD: It does not pray for relief authorized under the Statute then made and provided.

THE COURT: Overrule the objection at this time.

MR. BEEBE: We except.

MR. BEEBE: We further object to the introduction of the complaint because there is no showing at this time that the complaint was ever served on the parties and in the manner required by law.

THE COURT: Overrule the objection.

MR. BEEBE: Except.

PLAINTIFF'S EXHIBIT 7, APRIL 10, 1956.

STATE OF ALABAMA

COUNTY OF BALDWIN

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

Old Spanish Fort Development Company,
a Corporation,

Complainant,

Exhibit "A"

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East in Baldwin County,
Alabama, and any and all firms, persons
or Corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof,

Respondents.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF THE TWENTY-
FIRST JUDICIAL CIRCUIT OF ALABAMA, WHICH INCLUDES THE
COUNTY OF BALDWIN IN SAID STATE:

Your Orator, Old Spanish Fort Development Company, a corporation,
brings this its bill of complaint against Sections 38 and 39, Township
4 South, Ranges 1 and 2 east, in Baldwin County, Alabama, and against any
and all persons, firms or corporations claiming any title to, interest in
or lien or encumbrance on said lands, or any part thereof, and your Orator
respectfully shows unto the Court and unto your Honor as follows:

1. That your Orator is a corporation incorporated under the laws
of the State of Delaware, but authorized to do business in the State of
Alabama, and with its principal place of business in Alabama, designated
as Mobile, Alabama.

2. That the land against which this proceeding is brought is
situated in Baldwin County, State of Alabama, and described as follows:

Section 38, Township 4 South, Ranges 1 and 2 East, in
Baldwin County, Alabama, and known as the Alexis Truillett
or the Alexis Truillett Grant, and Section 39, Township
4 South, Ranges 1 and 2 East, in Baldwin County, Alabama,
and known as the Lefroy Truillett and Idane Chastang Grant
or as the Lefroy Truillett Grant; said Section 38 being the same land
patented to Alexis Truillett by a patent recorded in Deed Book
37 N.S., page 136, of the Public Records of Baldwin County, Alabama,
and said Section 39, being the same property granted by the
Spanish Government to Lefroy Truillett and Idane Chastang and
confirmed by the Acts of Congress of the United States of
America

3. That your orator is in the actual and peaceable possession of
the lands above described and claims to own the same absolutely and in
fee simple, subject to two certain vendor's liens reserved by those certain
instruments, one from Henry Moorer and wife to Agnes B. Lott, recorded in
Deed Book 37 N.S. at pages 503-4 and the other from Agnes B. Lott and
husband to Hiram H. Maynard recorded in Deed Book 37 N.S. at page 551-3
of the Public Records of Baldwin County, Alabama; that no suit is pending
to test its title to, interest in or its right to the possession of said
lands; that it acquired the legal title to said lands from Hiram H. Maynard

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by a deed recorded in Deed Book 40 N.S., page 534, of the Public Records of Baldwin County, Alabama; that said Hiram H. Maynard acquired said property by and through the following conveyances: Deed From Agnes B. Lott and husband, W. O. Lott, to Hiram H. Maynard, recorded in Deed Book 37 N.S. pages 551-3; deed from Henry D. Moorer and wife, to Agnes B. Lott, recorded in Deed Book 37 N.S. page 503-4; Deed from W. A. Sibley and wife, Belle E. Sibley, unmarried, to Henry D. Moorer, recorded in Deed Book 37 N.S. at pages 502-3; Deed from Augustus W. Sibley, a widower, to W. A. Sibley and Belle E. Sibley, recorded in Deed Book 30 N.S. at pge 390; deed from Cyrus Sibley to Augustus W. Sibley recorded in Deed Book H. page 506; that Cyrus Sibley acquired said property by and through the conveyances, patents and confirmations of title hereinafter set out:

Grant from the Spanish Government to LeFroy Trouillet and Idane Chastang, recorded in Record 2, page 63-66, translated record, of the public records of Mobile County, Alabama, and confirmation of said grant by the Acts of Congress of the United States of America.

Incomplete grant by the Spanish Government to Alexis Trouillet as shown by American State Papers, Volume 3, page 397, and confirmation of said grant by an Act of Congress of May 8th, 1822, and patent issued on said confirmation and recorded in the public records of Baldwin County, Alabama, in Deed Book 37 N.S. at page 136;

Deed from Antdne Trouillet, David Roberson and Emeline L. Roberson, his wife, to Jonathan Johns, recorded in Deed Book E. pages 337-8;

Deed from Ethelbert Brantley, guardian for Eliza J. Johns and Chloe E. Johns, minor heirs of Johathan Johns, deceased, to Cyrus Sibley, recorded in Deed Book F. pages 351-2;

Deed from Ransom W. Mathews and Elizabeth Amanda Matthews, his wife, to Cyrus Sibley, recorded in Deed Book F. pages 332-3;

Deed from Antoine Trouillet, David Robinson and Emeline Lloyd Robinson, his wife, to Cyrus Sibley, recorded in Deed Book No. 21 N.S. pages 646-7;

Deed from Simon Chestang, Saustin Chestang, Etunne Sertonis Reymond and Claire Chestang, wife, Gertrude Cuzon, formerly Gertrude Chestang, heirs of Sidonne Chestang to Augusto Savisson, Recorded in Book E. at pages 127-8;

Auguste Lavisson to James Clough, recorded in Deed Book H. Pages 287-8;

Certificate of survey of John James, U. S. Deputy Surveyor, and accompanying plat, recorded in Deed Book E. at page 248;

Deed from Franklin C. Heard to George E. Griffith, recorded in Deed Book E. pages 249-50;

Deed from George R. Griffith and Louisa R., his wife to Cyrus Sibley, recorded in Deed Book E. pages 253-4;

Deed from Ethelbert Brantley and Chloe Brantley to Cyrus Sibley, recorded in Deed Book G. page 59.

All references in this bill to recorded instruments refer to the public records in the probate office of Baldwin County, Alabama.

That while said Augustus W. Sibley was the owner and in possession of said tracts of land above described he, the said Augustus W. Sibley, and his wife, Ada A. Sibley, attempted to convey, by a deed dated May 18, 1874, and recorded in Deed Book K. Pages 487-8, to Margaret Francisco property described as follows:

"That certain tract, piece or parcel of land situated in said County and State and described as follows, to-wit: Commencing at the water's edge on north boundary line of Alexis Trouillet Tract and running thence East 12.64 chains; thence south 3.16 chains; thence west to the water's edge; thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort and containing about 4 acres and being a part of the Alexis Trouillet Tract, lying in Township four south of range one and two east in said state and County."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated October 8, 1879, and recorded in Deed Book L. pages 308-9, attempted to convey to Joseph Salva property described as follows:

"Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Bay Minette Bay, North 22½ degrees. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. w. 3.16 chains, thence North 52 degrees W. 9.48 chains to Bay thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south of Range two east."

That the said Augustus W. Sibley and Ada A. Sibley, his wife, by warranty deed dated January 10, 1879, recorded in Deed Book K. pages 261-2, attempted to convey to Charles Wilson property described as follows:

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The following described tract or lot of land: "Commence at an entwined poplar and blackgum on the south side of Bayou Minette Bay, at a point bearing south 58½ deg. East from a point of march on the south side and at the mouth of said Bay running thence south 52 deg. E. 9.48 chains to a post, thence North 38 deg. E. 6.32 chains to a post, thence North 52 deg. W. 9.48 chains to a poplar on the south bank of Bayou Minette Bay, containing 6 acres and being a portion of the Lefroy Trouillette Tract in Township four south and ranges one and two east."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated June 4th, 1879, and recorded in Deed Book Q. pages 516-7, attempted to convey to Thomas Domingo property described as follows:

"Commencing at a point 12½--100 chains north 2 deg. 30' West from the Southeast corner of a lot of 5 acres described in a survey made at the instance of A. W. Sibley on the 28th day of May 1879, and conveyed to Jos. Barnard and others; running thence south 87 deg. 30' East 9.48 chains to a post, 3½ chains 2 deg. 30' from the southeast corner of a lot of land surveyed for Jos. Barnard, thence north 2 deg. and 30' east on the east line of Barnard's lot, containing 3 acres and lying in township four south of range two east and being a portion of the Lefroy Trouillette Claim in Baldwin County, Alabama."

That the said A. W. Sibley, a widower, by quitclaim deed dated August 30th, 1912, and recorded in Deed Book 19 N.S. page 395, conveyed to Guy Edward Lozley property described as follows:

"All that real property in Baldwin County, Alabama, described as follows: Start at the mouth of Spanish Fort Branch, being the Southwest corner of the Lefray Trouillette Grant, and run north 1.69 for a beginning corner from thence run North 52 degrees East 8 chains to a stake in the bluff north side of Spanish Fort, thence North 45 degrees west 12 chains to the bank of Bay Minette Creek, thence down the east margin of said creek to the place of beginning, containing 4 acres more or less, and being fractional part of Lefray Trouillette grant in Township four south of range two and one east."

That the said A. W. Sibley also, by quitclaim deed dated June 3rd. 1914, and recorded in Deed Book 21 N.S. page 610, conveyed to the said Guy Edward Lozley property described as follows:

"In Baldwin County, Alabama, described as follows, to-wit: Start at the mouth of Spanish Fort branch, run north along the margin of Bay Minette Creek 1.69 chains for a beginning corner, thence north 52 deg. E. 8 chains to a stake at the bluff north side Spanish Fort; thence North 45 deg. West 5.12 chains to the Bank of Bay Minette Creek, thence down the east margin of said Creek to the place of beginning, containing 4 acres, more or less, and being a fractional part of the Lefroy Trouillette Grant, Section thirty-nine, all in township four, south of range two east."

And your orator avers that both of said deeds last mentioned were intended to cover the same lands and that the latter deed was given to correct the description in the former deed; that by deed from Agnes B. Lott and husband to Hiram H. Maynard, recorded in Deed record 37 N.S. page 395, and by deed from Hiram H.

Maynard to your orator, recorded in Deed Record 40 N.S. page 535, your orator has acquired the legal title to said property which was originally deeded by the said Augustus W. Sibley to Guy Edward Loxley by the two conveyances to the said Guy Edward Loxley herein referred to.

Your orator avers that the description in the said deed from the said Augustus W. Sibley to Joseph Salva and the description in the said deed from Augustus W. Sibley to Thomas Domingo and the description in the said deed from Augustus W. Sibley to Charles Wilson are each and all void for uncertainty, and that, while it was the purpose of the said Augustus W. Sibley to convey to the respective grantees in said deeds certain tracts of land situated in either one or the other of the said grants above described as Sections 38 and 39, yet, because of said descriptions being so indefinite as to render it impossible to locate the lands intended to be described therein, each and all of said conveyances were not effective as deeds, and that the title to the area attempted to be conveyed thereby has passed to your orator by reason of the deeds hereinabove referred to that your orator has made diligent inquiry to ascertain who was in possession of and who claimed to own each and all of the said respective pieces of land, and that in such effort to so ascertain such possession and ownership your orator has caused the tax records in Baldwin County, Alabama, to be examined, and that it has caused diligent inquiry to be made from persons residing in the community where said lands are situated and that it has caused its agents to go over said lands and examine the same to see who, if anyone, was in possession of any part thereof, and after all of such inquiry and investigation on its part as aforesaid it is unable to ascertain that any person other than one William Mastin, alias William Merchant, who resides in Mobile County, claims any right, title or interest in and to either of said tracts or parcels of land above described; that your orator is informed and believes, and upon such information and beliefs avers, that the said William Mastin, alias William Merchant, is in possession of one of said tracts of land last above described, but on account of the indefinite descriptions in said deeds as aforesaid, your Orator is not able to say with certainty which of said pieces or parcels of land the said Mastin claims or is in possession

~~of; that no other person is in possession of any of said tracts or~~
parcels, nor, so far as orator knows or can ascertain, does any
other person claim the same or any part thereof, or any interest
therein. While your orator contends that each and all of the said
conveyances last above set out are void for uncertainty in description,
yet if any person, firm or corporation claims to own either of said
pieces or parcels of land your orator here calls upon said persons,
firms or corporation to come into Court and set forth and specify
his claim, right, title or interest in and to the Court, and true
and correct location of the tract or tracts which he or they claim to
own or possess.

4. That the title to so much of the above described
lands as lie in Township 4 south, Range 2 East, stands on the
records of Baldwin County, Alabama, in the name of your orator, and
that the title to so much of the above described lands as lie in
Township 4 South, Range 1 East, stands upon the records of Baldwin
County, Alabama, in the name of Cyrus Sibley; that said Sections
38 and 39 are what are commonly known as Spanish Grants and the
township line between townships 1 east and 2 east, if projected
across said grants, would lease a small portion of each of said
grants in township 4 south, Range 1 East, a true plat of said prop-
erty showing its relation to said township line if projected
being hereto attached, marked Exhibit "A" and prayed to be taken
and considered as a part of this bill of complaint.

That the said deed from Cyrus Sibley to Augustus W. Sibley
a true copy of which is hereto attached and marked Exhibit "B" con-
veyed the following lands:

"all my lands and improvements situated in Township Four
South, Ranges two and three east, also eighty acres on east side
of Alabama River above cut-off purchased by me from Uriah Blue,
also Square Number Thirteen in the village of Montrose of said
County, according to the map of said village
on record, lying between Mr. Drews and square on which is the
Academy".

But your orator avers that the true intent and purpose
of the deed from Cyrus Sibley to Augustus W. Sibley, above referred
to, was to convey all of Section 38 and all of Section 39, above
described.

5. That on and after July 27, 1865, the date on which
Cyrus Sibley executed his deed to Augustus W. Sibley, above referred
to, the said Augustus W. Sibley immediately went into possession
of, and since that date, up to the date of his deed to W. A. Sibley
and Belle E. Sibley, above referred to, remained in possession of and

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claimed to own all of Sections 38 and 39, township 4 south, Ranges
and 2 East; except said tracts or parcels sold by the said Augustus
Sibley by the several deeds above referred to; that on and after
January 13th., 1921, W. A. Sibley and Belle E. Sibley went into pos-
session of all of said Sections 38 and 39 and claimed to own the same
up to the time that they deeded the same to Henry M. Moorer, by deed
hereinabove referred to; that your orator and those under whom it
claims have regularly assessed said lands for taxation and have paid
the taxes thereon since July 27th, 1865, and including the ten years
next preceding the filing of this bill, and that no other person has
paid taxes on said lands or any part thereof, or any interest therein,
nor has any other person had any possession of any part of said lands,
during any part of the said period of the ten years next preceding the
filing of this bill; and that so far as your orator knows no one claims said lands, or
any interest therein, other than your orator, except Wesley R. Sibley
who resides at Creola, Mobile County, Alabama, and Clarence E. Sibley,
who resides at Mobile, Mobile County, Alabama; that your orator is
informed and on such information and belief alleges that said persons
claim some right, title or interest in said lands through inheritance
from Cyrus Sibley, but your orator avers that said persons have in
fact no valid title or claim in and to said lands or any part thereof.

6. Your Orator brings this its bill of complaint against
the lands above described and against any and all persons, firms
and corporations claiming any title to, interest in, lien or encum-
brance on said lands, or any part thereof, and to establish the right
or title of your orator to such lands and to clear up all doubts or
disputes concerning the same.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, your Orator prays
that the lands hereinabove described, and any and all persons, firms
and corporations claiming any title to, interest in, lien or encum-
brances on said lands, or any part thereof, be made parties defendant
to this bill of complaint, and that the usual and proper process of
this Honorable Court be issued and served as required by law, to the
end that all persons, firms and corporations who claim said lands,
or any interest therein or encumbrances thereon, may be required to
appear, demur, plead to or answer this bill of complaint within the
time prescribed by law and under the rules of this Honorable Court.

Orator prays that any and all persons, firms and corp-
orations claiming any title to, interest in, lien or encumbrances

on said lands, or any part thereof, be required to set forth and specify such claim, right, title, interest, lien or encumbrances, and how and by what instrument the same is derived or created; and that upon the final hearing of this cause it will be ordered, adjudged and decreed by the Court that your orators at the time of the filing of this bill of complaint had the legal title to the above described lands and that no other person, firm or corporation has any right, title or interest therein or thereto, or to any part thereof, or any lien or encumbrance thereon, and that all doubts and disputes concerning said title may be cleared up and your orator's title to said lands fully and completely quieted. And your orator prays for such other, further, different and general relief as in equity and good conscience it may be entitled to receive in the premises, and your orator will ever pray, etc.

Old Spanish Fort Development Co., a Corp

By: /s/ Carter Smith, Secy.

/s/ Stevens, McCorvey, McLeod
Goode & Turner, Solicitors
for Complainant.

FOOTNOTE: All persons firms or corporations claiming any title to, interest in, lien or encumbrance on the lands described in this bill or any part thereof, and all persons desiring to intervene hereunder, are required to answer each and every paragraph of the foregoing bill of complaint, but not under oath; answer under oath being hereby expressly waived.

/s/ Stevens, McCorvey, McLeod
Good & Turner, Solicitors
for Complainant.

STATE OF ALABAMA

MOBILE COUNTY

Before me, Charles L. Rebus, a Notary Public in and for said County in said State, this day personally appeared Carter Smith as Secretary of Old Spanish Fort Development Company, Complainant, by whom the foregoing bill of complaint is signed and who being first duly sworn by me, deposes and says on oath that the facts alleged in said bill of complaint are true and correct and that all matters alleged in said bill, as on information and belief, he verily believes to be true.

/s/ Carter Smith

Sworn to and subscribed before me
this 18th day of May, 1927
/s/ Chas. L. Rebus
Notary Public, Mobile County, Alabama.

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CHERRY TRAIL

CHERRY TRAIL

COPY

KNOW ALL MEN BY THESE PRESENTS, That I, Cyrus Sibley, of the County of Baldwin, State of Alabama, in consideration of the love and affection I have and bear towards my son Augustus W. Sibley, and for the purpose of making a partial division of my property among my children, do hereby give, grant, convey and confirm unto the said Augustus W. all the following lands in Baldwin County, in said State, to-wit:

All my lands and improvements situated in Township Four south, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue. Also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the academy.

TO HAVE AND TO HOLD unto him, the said Augustus W. Sibley, and to his heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 27th day of July, 1865.

CYRUS SIBLEY

ATTEST:
JAMES BOND
D. C. ANDERSON.

STATE OF ALABAMA)
BALDWIN COUNTY.)

I, William Brooks, a Justice of the Peace for said County, do hereby certify that Cyrus Sibley, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 27th day of July, 1865.

WILLIAM BROOKS,
Justice of the Peace.

Received for Record July 31st, 1865

Recorded: August 3rd, 1865.

C. W. Wilkins,
Judge of Probate

EXHIBIT "B"

STATE OF ALABAMA
BALDWIN COUNTY.

I, Alice J. Duck, as Register of the Circuit Court of

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Baldwin County, Alabama, in Equity, do hereby certify that the above and foregoing instrument is a true and correct copy of the Bill of Complaint in the case of Old Spanish Fort Development Company, a Corporation vs. Certain Lands, as the same appears of record in my office.

WITNESS my hand and seal this the 11th day of April, 1950.

S E A L.

ALICE J. DUCK
Register of the Circuit Court of
Baldwin County, Alabama, in Equity

MR. BLACKBURN: We next offer in evidence a certified copy of the final decree in the case of Old Spanish Fort Development Company a Corporation, vs. Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, which decree is dated October 10, 1927, and recorded in Deed Book 44 at pages 86-88, Baldwin County Records, and ask that it be identified as Plaintiff's Exhibit 8. This instrument was previously Plaintiff's Exhibit 4.

MR. BEEBE: We object to the introduction of this decree in evidence, FIRST, Because the complaint in this cause is not sufficient to give the Court jurisdiction to render this decree; SECOND, that it is not shown that notice of the proceedings under the bill of complaint was ever served on any of the parties named in the bill of complaint - that it was never served on the heirs of Margaret Francisco, who are named in the Complaint as having an interest in the property; that it is inadequate because of the defects already pointed out in the complaint and in addition to that, because it is not shown that notice of the pendency of the suit was filed -- was posted at the Courthouse door as required by law; that it is not shown that the parties named in the complaint as having an interest in it were ever served in the manner required by law.

THE COURT: Overrule the objection.

MR. BEEBE: We except.

PLAINTIFF'S EXHIBIT 8, APRIL 10, 1956.

Plaintiff's Exhibit 4-

STATE OF ALABAMA

COUNTY OF BALDWIN

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

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NOTICE.

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-vs-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East in Baldwin County,
Alabama, and any and all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Notice is hereby given that Old Spanish Fort Development Company, a corporation, on the 19th day of May, 1927, filed a bill of complaint in the Circuit Court of Baldwin County, Alabama, in Equity, claiming to be in actual, peaceable possession of and claiming to own those certain parcels of land situated in the County of Baldwin, State of Alabama, described as follows:

Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Alexis Truillett or the Alexis Trouillet Grant, and Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as Lefroy Truillett Grant; said Section 38 being the same land patented to Alexis Trouillet by a patent recorded in Deed Book 37 N. S., page 136, of the Public Records of Baldwin County, Alabama, and said Section 39 being the same property granted by the Spanish Government to Lefroy Truillett and Idane Chastang and confirmed by the Acts of Congress of the United States of America.

Complainant alleges in its bill of complaint that the title to so much of said lands as lie in Township 4 South, Range 2 East, stands on the records of the Probate Court of Baldwin County, Alabama, in the name of Cyrus Sibley, and that the title to so much of said lands as lie in Township 4 South, Range 2 East, stands on the records of the Probate Court of said County in complainant; and that complainant claims title to said land by deed from Hiram H. Maynard to complainant recorded in Deed Book 40 N. S., at page 534, of the Public Records in the Probate Office of Baldwin County, Alabama, and by another deed from said Hiram H. Maynard to complainant recorded in Deed Book 40 N. S., at page 535, of said Public Records aforesaid; and complainant avers in said bill that the said Hiram H. Maynard acquired title to said property through a chain of conveyances, referred to in said bill, which is on file in my office

at Bay Minette, Baldwin County, Alabama; and complainant alleges in said bill that it and those under whom it claims have regularly assessed said lands for taxes and have paid the taxes thereon since July 27th, 1865, and including the ten years next preceding the filing of said bill, and during said time it and those under whom it claims have been in actual possession of said lands claiming to own the same, and that during said time no one else has paid taxes thereon or been in possession thereof except William Mastin, alias William Merchant, who claims to own a small parcel situated in said Section 39; and that this bill of complaint is filed for the purpose of establishing its title to and interest in said lands and clearing up all doubts and disputes concerning the same.

Witness my hand this the 19 day of May, 1927.

/s/ T. W. Richerson
Register of the Circuit Court of Baldwin
County, Alabama.

Stevens, McCorvey McLeod, Goode & Turner
Solicitors for Complainant.

J. D. MORRIS &. D. L. MORRIS	)	IN THE CIRCUIT COURT OF
Complainants	)	BALDWIN COUNTY, ALABAMA
vs.	)	IN EQUITY
OLD SPANISH FORT DEVELOPMENT COMPANY, ET AL)	
Respondents)	

4469

AMENDED BILL OF COMPLAINT

Now come your Complainants, J. D. Morris and D. L. Morris, and, leave of Court being first had and obtained, file this, their Amended Bill of Complaint, against Old Spanish Fort Development Company, a corporation, Merchants National Bank of Mobile, a National Banking Association, individually and as Trustee, and against George E. Fuller and Patricia B. Fuller, and respectfully show unto this Honorable Court as follows:

ONE

That your Complainants are over the age of twenty-one years and are residents of the State of Alabama, that the Respondent, Old Spanish Fort Development Company, is a corporation incorporated under the laws of the State of Delaware, being authorized to do business in the State of Alabama, with its principal place of business in Alabama designated as Mobile, Alabama, that the Merchants National Bank of Mobile is a National Banking Association with its principal place of business at Mobile, Alabama and that the said George E. Fuller and Patricia B. Fuller are residents of Baldwin County, Alabama, and are over twenty-one years of age.

TWO

Complainants aver that on, to-wit, May 18, 1874, Augustus W. Sibley was the owner of and in possession of the property then known as and designated Section 38 and Section 39, Township 4 South, Ranges 1 and 2 East in Baldwin County, Alabama, said Section 38 being known as the Alexis Trouillet or Trouillette Tract or grant and Section 39 being known as the Lefroy Trouillet or Trouillette, and Idane Chastang Tract or Grant, and Complainants further aver that while said Augustus W. Sibley was the owner and in possession of said tracts of land then known as or designated Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, he, the said Augustus W. Sibley, on, to-wit, the said 18th day of May, 1874, executed and delivered to Margaret Francisco a deed to a 4-acre parcel of land described as being a part of the Alexis Trouillet Tract, said 4-acre parcel being more particularly described in said deed to Margaret Francisco as follows:

Commencing at the water's edge on the North Boundary line of the Alexis Trouillet Tract and running thence East 12.64 chains, thence South 3.16 chains, thence West to the water's edge, thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort, and containing about 4 acres and being a part of the Alexis Trouillet Tract and lying in Township 4 South, Range One and Two East in said State and County.

THREE

Complainants aver that said 4-acre parcel of land, so conveyed by said Augustus W. Sibley, lay in the Alexis Trouillet or Trouillette Tract or Grant, which was designated by survey as Section 38, Township 4 South, Ranges 1 and 2 East, and that part of said 4-acre parcel also lay in the Lefroy Trouillet or Trouillette and Idane Chastang Tract or Grant, then designated by survey as Section 39, Township 4 South, Range 1 or 2 East, which said Section 39 overlapped said Section 38 as to part of said 4-acre parcel. But Complainants aver that said 4-acre parcel now lies entirely in said Section 38.

FOUR

Complainants aver that since Margaret Francisco by the execution and delivery to her of said deed from Augustus W. Sibley while he was the owner of and in possession of said 4-acre parcel succeeded to the title and possession of said Augustus W. Sibley in and to said 4-acre parcel, and also took possession of said 4-acre parcel so conveyed to her, built a house thereon which she used and occupied until her death about 1900.

FIVE

Complainants further aver that Margaret Francisco died intestate in towit 1900 leaving as her sole heir at law and next of kin Josephine Francisco Alexander, her daughter, who as sole heir at law of said Margaret Francisco succeeded to the title and possession of said 4-acre parcel of land and held the same during her lifetime, claiming to own the same and in fact holding the legal title thereto acquired by the

said deed from Augustus W. Sibley to Margaret Francisco; and that Josephine Francisco Alexander died intestate leaving as her sole heir at law and next of kin her son, John Alexander, a bachelor who succeeded to the title and possession of said Josephine Francisco Alexander who became and was the owner of the title to said 4-acre parcel, who also went into actual possession of said parcel of land on the death of his said mother, claiming to own the same as sole heir at law of Josephine Francisco Alexander, and continued in possession thereof until he conveyed the same to Complainants by deed dated November 8, 1941, recorded November 14, 1941, in Deed Book 76 N.S., pages 243-44 of the records in the Office of the Judge of Probate of Baldwin County, Alabama.

SIX

Complainants further aver that on, to-wit, May 19, 1927, the Respondent Old Spanish Fort Development Company, a corporation, filed in the Circuit Court of the Twenty-First Judicial Circuit of Alabama which on said date included Baldwin County, Alabama, a Bill of Complaint to quiet title describing the land against which it sought to quiet title as Sections 38 and 39, Township 4 South, Ranges 1 and 2 East in said Baldwin County, copy of which said complaint with the record of service thereon is attached hereto as Exhibit "A" and by reference made part hereof.

And Complainants further aver that, although said 4-acre parcel had, to the knowledge of Old Spanish Fort Development Company, been conveyed out of and segregated from the remainder of said Sections 38 and 39 by the aforesaid deed to Margaret Francisco and was then owned by said John Alexander

and was then in his possession, said Old Spanish Fort Development Company in filing its Bill of Complaint did not seek to quiet against said 4-acre parcel as such, so as to give reasonable and proper notice to John Alexander, the owner and possessor thereof, that said Complainant was seeking to quiet title to said 4-acre parcel, but filed its bill to quiet title against all of Sections 38 and 39 of Township 4 South, Ranges 1 and 2 East, which included some 800 acres of land.

Complainants aver that at the time said bill to quiet title was filed by Old Spanish Fort Development Company in 1927, there was no controversy as to the title to all of Sections 38 and 39, and this fact was known to said Old Spanish Fort Development Company when it filed its said Bill. There were, as disclosed by the records of Baldwin County and by the said Bill itself, adverse claims to several comparatively small parcels of land in said Section 39 arising out of deeds from Augustus W. Sibley to the following named individuals, viz: - Thomas Demingo - 3 acres, described by metes and bounds; Joseph Salva - 3 acres, described by metes and bounds; Charles Wilson, 6 acres, described by metes and bounds; Guy Edward Loxley, 4 acres, described by metes and bounds.

It was alleged in the said bill to quiet title that each of these deeds was void for uncertainty in description, but no one of the grantees therein was made a party to the bill to quiet title and given the opportunity of showing that the description in his deed was or could, by extraneous evidence, be made certain. Neither were the heirs, devisees or successors in title to any of said grantees made a party or parties to the bill as an unknown party or unknown parties.

The parcel actually and actively in controversy when said bill was filed, was the 4-acre parcel conveyed by Augustus W. Sibley to Margaret Francisco, and as above alleged, neither she nor her heir or heirs, devisee or devisees, successor or successors in title was made a party to the bill to quiet title either by name or as an unknown party. Furthermore, although this parcel was in actual and active controversy, it was not described in the bill "with certainty" as the "lands in controversy". In fact, it was not described in that bill at all except as an indefinite part of a large tract of land, consisting of two sections, viz, Sections 38 and 39, Township 4 South Ranges 1 and 2 East.

Complainants aver that by not describing the said 4-acre parcel in controversy with certainty, the said Complainant in said bill to quiet did not comply with a mandatory provision of the statute, but positively violated the same.

Complainants aver further that neither Thomas Domingo, Joseph Salva, Charles Wilson, Guy Edmond Loxley, nor Margaret Francisco was named as a party to said bill, nor were the heir or heirs, devisee or devisees, or the successor or successors in title to any of said individuals made a party or parties as unknown parties.

SEVEN
at

Complainants aver that/and prior to the time of the filing of said Bill of Complaint, Old Spanish Fort Development Company knew, or had notice, that Augustus W. Sibley under whom it claims title, owned and was in possession of said 4-acre

parcel and that on to-wit, May 18, 1874, he, being the owner and in possession thereof, had conveyed the 4-acre lot or parcel of land from and out of said Sections 38 and 39 to Margaret Francisco, the same being hereinabove specifically and validly described in paragraph Two hereof, said conveyance appearing in Complainant's chain of title by the record of the deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated May 18, 1874, and recorded in Deed Book K, pages 487-488 of the records of the Probate Court of Baldwin County, Alabama.

Complainants further aver that at the time of the filing of said Bill of Complaint and long prior thereto, said Old Spanish Fort Development Company knew that Margaret Francisco had acquired title to said 4-acre parcel of land in Sections 38 and 39, now Section 38, under the aforesaid deed and that said Old Spanish Fort Development Company had acquired no right, title or interest therein.

Complainants further aver that despite the fact that Respondent, Old Spanish Fort Development Company, knew that it had acquired and had no right, title or interest in or to said 4-acre parcel and knew that Margaret Francisco had acquired title thereto, and knew that the title to said parcel was claimed by the said Margaret Francisco, who held a deed purporting to convey the same to her, said Old Spanish Fort Development Company did not comply with the provisions of the Statute (Code 1923, Sec. 9913) which specifically "and mandatorily required that one filing such a bill of complaint to quiet title must describe therein with certainty the lands in controversy," and specifically required that Complainant

state in its complaint in whose name the title to the lands involved in said complaint stands upon the records of the Probate Court of the County where the lands are situated, said Old Spanish Fort Development Company knowingly and falsely alleged that the record title to all of the land described in its said bill, viz, Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, stood in the name of Complainant, when in truth and in fact title to the aforesaid 4-acre parcel stood on the records of the Probate Court of Baldwin County, Alabama, in the name of Margaret Francisco, and was then vested in her or in her heirs, devisees, successors in title or assigns.

And Complainants further aver that said Old Spanish Fort Development Company, in its said complaint in said cause, further failed to comply with the mandatory provisions of said statute (Code 1923, Sec. 9913) which specifically required that in such a bill of complaint, complainant must state therein who, if anyone, is known to complainant to claim the lands to which complainant seeks to quiet title, or any part thereof or any interest therein, and shall give in said complaint the residence and address of such person or persons, if known.

Complainants aver that, although the records of Baldwin County, Alabama, and the record of conveyances in the chain of title under which Old Spanish Fort Development Company claimed title to said Sections 38 and 39, showed that title to said 4-acre parcel, which is described in paragraph Two hereof, stood in the name of Margaret Francisco, Old Spanish Fort Development Company did not allege said fact in

its said bill of complaint, nor did it allege the place of residence or address of said Margaret Francisco or that such place of residence or address was unknown to complainant, nor did complainant allege that Margaret Francisco was dead at the time of the filing of the bill nor did it make her a party to said bill, nor did said complaint state in it the names and addresses of the heirs or devisees of said Margaret Francisco, or allege that their names and addresses were unknown, nor was it alleged in said complaint that complainant exercised diligence to ascertain whether or not Margaret Francisco was then dead, and if so, the names and addresses of her heirs or devisees, nor did it allege facts as required by said Section 9913 of the Code of Alabama of 1923, sufficient to show the exercise of reasonable diligence to ascertain whether Margaret Francisco was dead or, if so, to ascertain the names and addresses of her heirs or devisees.

Complainants further aver that said Old Spanish Fort Development Company, in filing and prosecuting said bill of complaint, did not comply with the statutes governing the quieting of title to real estate in that, although it knew in fact and from the record of deeds in its chain of title that Margaret Francisco had bought said 4-acre parcel, and claimed to own said 4-acre parcel of land, it did not make said Margaret Francisco a party to said bill of complaint, nor did complainant therein take the steps required by statute for making Margaret Francisco, her heir or heirs, devisee or devisees, or successor or successors in title, a party or parties to said complaint, or for obtaining service of notice on said Margaret Francisco, her heir or heirs, devisee or

devisees, successor or successors in title by serving notice on them in the same manner that process is served in suits in equity, or by registered mail as provided in Section 9914 of the Code of 1923, nor was notice given to said Margaret Francisco, her heir or heirs, devisee or devisees, or successor or successors in title by registered mail, nor was any notice published which showed that record title to that portion of said Sections 38 and 39 as stood in the name of Margaret Francisco, her heir or heirs, devisee or devisees, successor or successors in title, or which showed complainant was seeking to quiet title against Margaret Francisco or against her heir or heirs, devisee or devisees, successor or successors in title, or against said 4-acre parcel of land conveyed to and claimed by her.

EIGHT

Complainants aver that Margaret Francisco or her heirs at law, as owners of the legal title to said 4-acre parcel of land, were in actual and constructive possession thereof at the time said bill to quiet was filed, and had been in such possession thereof, claiming to own the same, since Margaret Francisco acquired title thereto from Augustus W. Sibley on, to-wit, May 18, 1874, as hereinabove alleged, and that they had never been ousted from possession by Old Spanish Fort Development Company or anyone under whom it claimed title and complainants aver that said bill of complaint does not allege sufficient facts to charge that Margaret Francisco or her heir or heirs, devisee or devisees, successor or successors in title, was or were not in possession of or paying taxes on said 4-acre parcel of land within 10

years of the filing of the said suit or at the time of the filing of said suit.

And Complainants further aver that at the time of the filing of said bill of complaint by Old Spanish Fort Development Company, and for a long time prior thereto, John Alexander was the owner of and was in possession of said 4-acre parcel which he had inherited from his mother, Josephine Francisco Alexander, and was then living in Mobile, Alabama, and complainants aver that Old Spanish Fort Development Company by the exercise of ordinary diligence could and would have learned, as complainants did, that John Alexander had inherited and was the owner of said parcel of land, and could and would have learned his address so that notice of the said suit to quiet title could and should have been personally served on him as required by Statute.

Complainants further aver that neither Margaret Francisco nor Josephine Francisco Alexander, nor John Alexander, was made a party defendant by name, nor was the heir or heirs, devisee or devisees, successor or successors in title of Margaret Francisco or Josephine Francisco Alexander made a party or parties to the bill as unknown party or parties, nor was any one of them served with process or given notice of the filing of said bill as required by statute, nor was Josephine Francisco Alexander or John Alexander made a party to said suit or served with process or given notice of the filing of said suit as an unknown heir or devisee of Margaret Francisco or Josephine Francisco Alexander, nor was or were the heir or heirs or devisee or devisees or successor or successors in title of Margaret Francisco or Josephine

Francisco Alexander alleged to be unknown and made parties to said suit as unknown parties.

Complainants further aver that despite the fact that the statutes for quieting title were not complied with as hereinabove alleged, as shown by the bill of complaint in said cause, and in spite of the fact that process was not served on or notice given to Margaret Francisco, or Josephine Francisco Alexander or John Alexander or to the heirs of Margaret Francisco or Josephine Francisco Alexander alleged to be unknown after diligent inquiry, and despite the fact that John Alexander was the owner of and in possession of said 4-acre parcel in said Section 38 at the time said bill to quiet title was filed, and in spite of the fact that neither the title to nor any interest in said 4-acre parcel was shown to be or was in fact in the complaint in said cause, but was shown and admitted to be in Margaret Francisco, or if she were dead at the time of the filing of the bill, then title to said 4-acre parcel was shown to be and was in fact in her heirs or devisees or assignees, the court in said cause entered a decree, copy of which is hereby attached as Exhibit B, and by reference made part hereof.

Complainants aver that on, to-wit, November 8, 1941, they in good faith and for a valuable consideration bought the said 4-acre parcel of land, legal title to which was acquired by Margaret Francisco as above alleged, from John Alexander who then claimed to own and in fact owned and was in possession of said 4-acre parcel, without any knowledge or notice on complainants' part, of the filing of said bill to quiet title or of the decree rendered therein, and were put into possession thereof by said John Alexander, and thereafter continued in the

actual open and notorious adverse possession thereof up to the present time claiming to own the same under said deed from John Alexander. And Complainants aver that for more than ten years next preceding the filing of this bill of complaint, they have assessed and paid the taxes on said 4-acre parcel of land.

NINE

Complainants further aver that the Complainant, Old Spanish Fort Development Company, in its said bill to quiet title, with the purpose and intent of inducing the Court in said cause to assume and exercise jurisdiction to quiet title to said 4-acre parcel of land, more particularly described in Paragraph Two hereof, made each of the allegations below set out and specified in subsections a, b, c, d, e, f and g hereof, viz:

(a) that said Old Spanish Fort Development Company at the time of the filing of said bill to quiet title, is in the actual and peaceable possession of the lands described in the bill of complaint, which were "Section 38, Township 4 South Ranges 1 and 2 East * * * known as the Alexis Trouillet grant" and "Section 39 Township 4 South Ranges 1 and 2 East * * * known as the Lefroy Trouillet and Idane Chastang grant."

(b) that Old Spanish Fort Development Company acquired the legal title to said lands, viz, Sections 38 and 39 of Township 4 South, Ranges 1 and 2 East.

(c) that no person, other than Old Spanish Fort Development Company is (at the time said bill to quiet title was filed) in possession of any of said tracts or parcels, nor so far as Orator (Old Spanish Fort Development Company) knows

or can ascertain, is any other person claiming the same or any part thereof or any interest therein.

(d) that "the title to so much of the above described lands, viz Sections 38 and 39, as lie in Township 4 S Range 2 East, stands in the record of Baldwin County, Alabama, in the name of your Orator", Old Spanish Fort Development Company.

(e) that during the ten years next preceding the filing of the said bill of complaint to quiet title, no other person than Old Spanish Fort Development Company has had any possession of any part of said lands during any part of said period of ten years next preceding the filing of said bill.

(f) that so far as it, the said Old Spanish Fort Development Company, then knew^{of} no one claiming said lands, other than Old Spanish Fort Development Company, except Wesley R. Sibley and Clarence E. Sibley.

(g) that on and after January 13, 1921, W. A. Sibley and Belle E. Sibley went into possession of all of the said Sections 38 and 39 and claimed to own the same up to the time they deeded the same to Henry D. Moorer.

Complainants further allege (1) that all of the allegations of said bill to quiet title which are set out in subsections a to g inclusive were false, and known by said Old Spanish Fort Development Company to be false at the time said bill to quiet title was filed. (2) that, if Complainants are mistaken in alleging that all of the allegations of said bill to quiet title, which are set out and specified in subsections a to g inclusive are false, Complainants allege that the allegations of said bill to quiet title which are set out in subsection a, separately in subsection b, separately in

subsection c, separately in subsection d, separately in subsection e, separately in subsection f, and separately in subsection g were false and known by said Old Spanish Fort Development Company to be false at the time it filed its said bill to quiet title.

Complainants further aver that if all of the allegations of the bill to quiet title which are set out and specified in subsections a to g inclusive were not known by Old Spanish Fort Development Company to be false at the time it filed its said bill to quiet title which included said allegations, then Complainants aver that the facts so alleged in said bill were not known by complainant, Old Spanish Fort Development Company, to be true, and it had not exercised reasonable care to ascertain the truth or falsity of said allegations, at the time it filed said bill.

And Complainants further aver that if the separate allegations set out and specified in subsection a, in subsection b, in subsection c, in subsection d, in subsection e, in subsection f and in subsection g were not known by complainant, Old Spanish Fort Development Company to be false at the time it filed its said bill to quiet title, the fact is that said Old Spanish Fort Development Company did not know said allegations in subsection a, in subsection b, in subsection c, in subsection d, in subsection e, in subsection f or in subsection g to be true and had not exercised reasonable care to ascertain the truth or falsity of said allegations,

Complainants further aver that the false allegations of jurisdictional facts in said bill to quiet title, were

made by Complainant in said cause with the intent of inducing and they did induce the Court in said cause to assume and to exercise jurisdiction of said cause and to render the decree purporting to be a final decree quieting title to said Sections 38 and 39 as prayed in said cause, a copy of which said decree is hereto attached marked Exhibit B.

TEN

Complainants aver that on, to-wit, May 18, 1874, Augustus W. Sibley was the owner of and was in possession of the 4-acre parcel of land described in paragraph two of this Bill of Complaint and on, to-wit, said date he conveyed said 4-acre parcel of land to Margaret Francisco, the grandmother of John Alexander; that Josephine Francisco Alexander, the only heir of Margaret Francisco living at the time of her death inherited and became the owner of said 4-acre parcel and that John Alexander, the only child of Josephine Francisco Alexander, inherited said 4-acre parcel of land from his said mother, Josephine Francisco Alexander upon her death, and that said John Alexander was the owner of and was in possession of said 4-acre parcel at the time the aforesaid bill to quiet title was filed by Old Spanish Fort Development Company, and at the time the decree in said cause, a copy of which is hereto attached as Exhibit B, was rendered.

And Complainants aver that they acquired the legal title which was then owned by John Alexander in and to said 4-acre parcel of land under and by virtue of a warranty deed from said John Alexander dated November 8, 1941, and recorded in the Baldwin County records on, to-wit, March 14, 1941, as hereinabove alleged.

J. D. MORRIS and
D. L. MORRIS

Complainants

VS

OLD SPANISH FORT DEVELOPMENT
COMPANY, a corporation; and
its successors or assigns, viz:
Merchants National Bank of
Mobile, a banking corporation,
individually and as Trustee and
George E. Fuller and Patricia B.
Fuller

Respondents

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

NO 4469

TO THE CIRCUIT COURT OF BALDWIN COUNTY, SITTING IN EQUITY:

Now come your Complainants, J. D. Morris and D. L. Morris, and bring this, their Bill of Complaint, against Old Spanish Fort Development Company, a corporation, Merchants National Bank of Mobile, a banking corporation, individually and as Trustee, and against George E. Fuller and Patricia B. Fuller, and respectfully shows unto this Honorable Court as follows:

ONE

That your Complainants are over the age of twenty-one years and are residents of the State of Alabama, that the Respondent, Old Spanish Fort Development Company, is a corporation incorporated under the laws of the State of Delaware being authorized to do business in the State of Alabama with its principal place of business in Alabama designated as Mobile, Alabama, that the Merchants National Bank of Mobile is a national banking association with its principal place of business at Mobile, Alabama, and that the said George E. Fuller and Patricia B. Fuller are residents of Baldwin County, Alabama, and are over twenty-one years of age.

TWO

Complainants aver that on, to-wit, May 18, 1874, Augustus W. Sibley was the owner of and in possession of Section

38, Township 4 South, Ranges 1 and 2 East in Baldwin County, Alabama, known as the Alexis Trouillet or Trouillette Tract or grant and, as part of said Section 38, was the owner of and in possession of a four acre parcel of land beginning at a point where the North line of the said Alexis Trouillet or Trouillette Tract intersects the water's edge of the body of water bounding said tract or grant on the West, namely Appalachee River, and Complainants aver that on, to-wit, said date, said Augustus W. Sibley then being the owner and in possession thereof, conveyed to Margaret Francisco said four acre parcel of land in Baldwin County, Alabama, from and out of said Section 38, said four acre parcel being more particularly described as follows:

Commencing at the water's edge on the North boundary line of the Alexis Trouillet tract and running thence East 12.64 chains, thence South 3.16 chains, thence West to the water's edge, thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort, and containing about 4 acres and being a part of the Alexis Trouillet Tract and lying in Township four south, Range One and Two East in said State and County.

Complainants further aver that said Margaret Francisco was put or let into possession of said 4 acre parcel of land, so sold and conveyed to her, by her said grantor, built a house on and used and occupied said parcel of land during her lifetime.

THREE

Complainants further aver that Margaret Francisco died intestate leaving as her sole heir at law and next of kin Josephine Francisco Alexander, who went into possession of and held continuous open, notorious, adverse possession of said parcel of land during her lifetime, claiming to own the same and that Josephine Francisco Alexander died intestate leaving as her sole heir at law and next of kin, John Alexander, a bachelor, who went into possession of said parcel of land on the death of his said mother and continued in the open, notorious adverse possession thereof until he conveyed the same to

Complainants by deed dated November 14, 1941, recorded in deed Book 76 N.S. pages 243-244 of the records in the Office of the Judge of Probate of Baldwin County, Alabama.

FOUR

Complainants further aver that on, to-wit, May 19, 1927, the Respondent Old Spanish Fort Development Company, a corporation, filed in the Circuit Court of the Twenty-first Judicial Circuit of Alabama which on said date included Baldwin County, Alabama, a Bill of Complaint to quiet title against Sections 38 and 39, Township 4 South, Ranges 1 and 2 East in said Baldwin County, copy of which said Complaint with the record of service thereon is attached hereto as Exhibit A and by reference made part hereof.

FIVE

Complainants aver that at and prior to the time of filing of said Bill of Complaint, Old Spanish Fort Development Company knew, or had notice, that Augustus W. Sibley under whom it claims title, owned all of said Section 38 prior to and on the 18th day of May, 1874, and that on said date he, being the owner thereof, had conveyed a four acre lot or parcel of land from and out of said Section 38 to Margaret Francisco, said conveyance appearing in complainant's chain of title by the record of the deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated May 18, 1874, and recorded in Deed Book K, pages 487-488 of the records of the Probate Court of Baldwin County, Alabama.

Complainants further aver that at the time of the filing of said Bill of Complaint and long prior thereto, said Old Spanish Fort Development Company knew or had notice from the following recorded deeds in its chain of title that Margaret Francisco had acquired title to said four acre parcel of land in Section 38 under the aforesaid deed and that said Old Spanish Fort Development Company had acquired no right, title or interest therein, namely:-

(1) Deed from W. A. Sibley and wife to Henry D. Moorer dated November 9, 1925, and recorded in Deed Book 37 N.S. page 502 of the Baldwin County records which purports to convey all of said Section 38 known as the Alexis Trouillette Grant less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

(2) Deed from Henry D. Moorer and wife to Agnes B. Lott, dated November 10, 1925, recorded in Deed Book 37 N.S., page 503, purporting to convey all of said Section 38 known as the Alexis Trouillette Tract less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

(3) Deed from Agnes B. Lott and husband to Hiram H. Maynard, dated November 10, 1925, recorded in Deed Book 37 N.S. pages 551-553 of said Baldwin County records purporting to convey all of said Section 38 known as the Alexis Trouillette Grant less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K pages 487-488.

(4) Deed from Hiram H. Maynard, bachelor, to Old Spanish Fort Development Company dated April 8, 1926, and recorded in Deed Book 40 N.S., page 534 of the records of the Probate Court of Baldwin County, Alabama, on the 10th day of September 1926, which said deed is alleged in said Bill of Complaint to be and is the basis of the title of the said Old Spanish Fort Development Company, and which said deed purports to convey all of said Section 38 known as the Alexis Trouillette Tract less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

SIX

Complainants further aver that despite the fact that Respondent, Old Spanish Fort Development Company knew or had notice, from the aforesaid recorded deeds in its chain of title and from the very deed under and by virtue of which it claimed title to said Section 38, that it had acquired and had no right, title or interest in or to said four acre parcel of said Section 38

and knew or had notice that Margaret Francisco had acquired title thereto, Old Spanish Fort Development Company did not comply with the provisions of the Statute (Code 1923, Sec. 9913) which specifically required that complainant state in its complaint in whose name the title to the lands involved in said complaint stands upon the records of the Probate Court of the County where the lands are situated, but knowingly alleged that the record title to all of the land described in its said bill, viz, sections 38 and 39, Township 4 South, Ranges 1 and 2 East, stood in the name of complainant when in truth and in fact it was charged with notice and knew, that title to the aforesaid four acre parcel, stood on the records of the Probate Court of Baldwin County in the name of Margaret Francisco.

And Complainants further aver that said Old Spanish Fort Development Company, in its said complaint in said cause did not comply with the provisions of said statute (Code 1923, Sec. 9913) which specifically required that in such a bill of complaint, complainant must state therein who, if anyone, is known to complainant to claim the lands, to which complainant seeks to quiet title, or any part thereof or any interest therein, and shall give in said complaint the residence and address of such person or persons, if known.

Complainants aver that although the records of Baldwin County, and the record of conveyances in the chain of title under which Old Spanish Fort Development Company, claimed title to said Sections 38 and 39, showed that title to said four acre parcel of Section 38, stood in the name of Margaret Francisco, it did not allege said fact in its said bill of complaint, nor did it allege the place of residence or address of said Margaret Francisco or that such place of residence or address was unknown to complainant, nor did said complainant allege that Margaret Francisco was known to the complainant to be dead, nor did said complainant state in said complaint the names and addresses of the heirs or devisees of said Margaret Francisco, or allege that their names and address were

were unknown, nor was it alleged in said complaint that complainant exercised diligence to ascertain whether or not Margaret Francisco was then dead, and if so, the names and addresses of her heirs and devisees, nor did it allege facts as required by said Section 9913 of the Code of Alabama of 1923, sufficient to show the exercise of diligence to ascertain whether Margaret Francisco was dead or to ascertain the names and addresses of her heirs or devisees if she was then dead.

Complainants further aver that said Old Spanish Fort Development Company, in filing and prosecuting said bill of complaint, did not comply with the Statutes governing the quieting of title to real estate in that, although it knew or had notice that Margaret Francisco acquired title to and claimed to own said four acre parcel of land, it did not make said Margaret Francisco a party to said bill of complaint, nor did complainant therein take the steps required by Statute for making Margaret Francisco, her heir or heirs, devisee or devisees, or successor or successors in title, a party or parties to said complaint, or for obtaining service of notice on said Margaret Francisco, her heir, or heirs, devisee or devisees, successor or successors in title by serving notice on them in the same manner that process is served in suits in equity, or by registered mail as provided in Section 9914 of Code of 1923, nor was notice given to said Margaret Francisco, her heir or heirs, devisee or devisees or successor or successors in title by registered mail, nor was any notice published which showed that record title to a portion of said Sections 38 stood in the name of Margaret Francisco, her heirs, devisees or successors in title or which showed complainant was seeking to quiet title against Margaret Francisco or against her heirs, devisees or successors in title.

SEVEN

Complainants aver that Margaret Francisco and her heirs at law, as owners of the legal title to said four acre parcel of land, were in possession thereof and had been in possession thereof since Margaret Francisco acquired title thereto from Augustus W. Sibley

on, to-wit, May 18, 1874, as hereinabove alleged, and that they had never been ousted from possession by Old Spanish Fort Development Company or anyone under whom it claimed title and complainants aver that said bill of complaint does not allege sufficient facts to charge that Margaret Francisco or her heirs or devisees were not in possession of or paying taxes on said four acre parcel of land within 10 years of the filing of the said suit or at the time of the filing of said suit.

And complainants further aver that at the time of the filing of said bill of complaint by Old Spanish Fort Development Company, and for a long time prior thereto, John Alexander was the owner of and was in actual possession of said four acre parcel which he had inherited from his mother, Josephine Francisco Alexander, and was then living in Mobile, Alabama, and complainants aver that Old Spanish Fort Development Company by the exercise of ordinary diligence could and would have learned that he had inherited or was the owner of said parcel of land, and could and would have learned his address so that notice of the said suit to quiet title could have been personally served on him as required by Statute.

EIGHT

Complainants further aver that neither Margaret Francisco nor Josephine Francisco Alexander, nor John Alexander was made a party by name to said bill to quiet title, nor was any one of them served with process or given notice of the filing of said bill as required by statute, nor was Josephine Francisco Alexander or John Alexander made a party to said suit or served with process or given notice of the filing of said suit as an unknown heir or devisee of Margaret Francisco, nor were the heirs or devisees of Margaret Francisco alleged to be unknown and made parties to said suit as unknown parties.

NINE

Complainants aver that despite the fact that the statutes for quieting title were not complied with as hereinabove

alleged, as shown by the bill of complaint in said cause, and in spite of the fact that process was not served on or notice given to Margaret Francisco, or Josephine Francisco Alexander or John Alexander or ^{to} the heirs of Margaret Francisco alleged to be unknown after diligent inquiry, and despite the fact that John Alexander was the owner of & in possession of said four acre parcel of said Section 38 at the time said bill to quiet title was filed, and in spite of the fact neither the title to nor any interest in said four acre parcel was shown to be in the complainant in said cause, but was shown to be in Margaret Francisco, or if she were dead at the time of the filing of the bill, then in her heirs or devisees, the court in said cause entered a decree, copy of which is hereto attached as Exhibit B, and by reference made part hereof.

TEN

Complainants aver that in, to-wit, November 1941, they in good faith and for a valuable consideration bought the four acre parcel of land in said Section 38, legal title to which was acquired by Margaret Francisco as above alleged, from John Alexander who then owned and was in possession of said four acre parcel, without any knowledge or notice on their part, of the filing of said bill to quiet title or of the decree rendered therein, and were put into possession thereof by said John Alexander, and thereafter continued in the actual peaceable possession thereof without notice of any adverse claim by Old Spanish Fort Development Company or its successor in title, the Merchants National Bank of Mobile, as Trustee, until the latter, together with respondents, George E. Fuller and Patricia B. Fuller, filed a bill in equity, on, to-wit, the 26th day of March, 1946, against complainants, alleging that said bank as Trustee owned all of the aforesaid Section 38, and seeking to enjoin complainants from removing trees or timber from said property and from trespassing on or changing the status thereof in any way or manner.

Complainants aver that after the filing of said bill of complaint, the complainants in this cause continued in the possession of said four acre parcel of said Section 38, and on, to-wit, the 21st day of June, the Merchants National Bank of Mobile, as Trustee, George E. Fuller and Patricia B. Fuller filed a suit in ejectment against complainants in this cause in the Circuit Court of Baldwin County, seeking to recover from complainants lands which included said four acre parcel. Complainants disclaimed title to all of the property sued for except the aforesaid four acre parcel, and the jury in said cause rendered its verdict for defendant for said four acre parcel, a judgment was entered for defendant as to said four acre parcel, whereupon a motion for new trial was made by plaintiffs, and was overruled by the Court on January 15, 1949, whereupon, on, to-wit, March 2, 1949 an appeal was taken by plaintiffs in said cause to the Supreme Court of Alabama by which Court the judgment of the Circuit Court was reversed on, to-wit, the 6th day of October 1949, on the erroneous assertion that the bill filed by Old Spanish Fort Development Company contained all the statutory allegations to confer jurisdiction and that the decree adjudged that they existed, when, in truth & in fact, the bill in said cause failed to contain such necessary jurisdictional allegations as is hereinabove specifically alleged, and complainants predecessors in title were neither made parties to said suit, nor served with process or notice, or given an opportunity to defend against said suit.

ELEVEN

Complainants further aver that the judgment in favor of complainants in this cause in said ejectment suit was reversed and the cause was remanded for further proceedings in the Circuit Court of Baldwin County, and complainants, as defendants in said suit, were held to be bound by the decree in said suit to quiet title and judgment was rendered against them on the ground that the decree in the suit to quiet title was binding on complainants/ ^{in this cause,}

and could not be attacked collaterally, by proof that complainants in fact held the record title to said four acre parcel and said judgment was affirmed on appeal to the Supreme Court of Alabama on, to-wit, May 22, 1958, and a rehearing denied June 12, 1958.

Complainants aver that as a result of the erroneous decision of the Supreme Court on October 6, 1949, followed in the said decision of May 22, 1958, complainants as bona fide purchasers of said four acre parcel of land from John Alexander, who was the owner thereof and in possession thereof at the time the aforesaid bill to quiet title was filed, but who was not made a party to said suit, nor served with process or notice, as required by statute, and who, in fact, had no notice of said proceedings, will be deprived of their title to said four acre parcel of land without due process of law, if said decree in said suit to quiet title is held to be binding on them. Complainants further aver that the aforesaid decree of Oct. 10, 1927, if given the force and effect accorded to it by the aforesaid decisions of the Supreme Court of Alabama, constitutes a cloud on complainants' title to said four acre parcel of said Section 38, and complainants bring this their bill of complaint, for a direct determination of the force and effect of said decree on complainants' title, and to this end seek a construction of the allegations of the bill of complaint in said suit to quiet title, and a determination, from the record in said cause, of whether complainants' predecessor in title, John Alexander, was deprived of or debarred from asserting his title to said four acre parcel of land.

TWELVE

Complainants aver that at the time of said decree of Oct. 10, 1927, copy of which is hereto attached as Exhibit B, John Alexander was in actual possession of and was the owner of said four acre parcel of land ^{that} after said decree he remained in open, notorious and continuous possession thereof, without knowledge or notice of said decree, claiming to own the same under the aforesaid deed to Margaret Francisco, as her heir at law, until he conveyed and delivered possession of said four acre parcel to complainants,

and complainants aver that since the conveyance of John Alexander to them in 1941, and during the pendency of said ejectment suit, they have been and still are in actual possession of said four acre parcel of said Section 38.

PRAYER FOR PROCESS

To the end, therefore, that Equity be done in the premises, complainants pray that Old Spanish Fort Development Company, a corporation, The Merchants National Bank, a National Banking Association, individually and as Trustee, George E. Fuller and Patricia B. Fuller, be made parties respondent to this their bill of complaint, and that process in accordance with the course and practice of this Honorable Court be issued to and served upon them.

PRAYER FOR RELIEF

Complainants pray that pending a final hearing of this cause, that this Honorable Court enter an order staying execution on the judgment in favor of The Merchants National Bank of Mobile, as Trustee, for recovery of the aforesaid four acre parcel of land. And Complainants further pray that upon final hearing of this cause that this Honorable Court be pleased to consider the allegations of the bill of complaint in said suit by Old Spanish Fort Development Company to quiet its title to said four acre parcel of said Section 38, and will consider the record of service and of publication of notice of the filing of said suit and will find and decree that title to the aforesaid four acre parcel of land stood on the records at the time of the filing of said bill of complaint in Margaret Francisco, her heirs, devisees or successors in title, that Old Spanish Fort Development Company knew at the time it filed said bill that the said four acre parcel of land was owned and claimed by Margaret Francisco, if living, or by her heirs or devisees if she was dead, that it did not allege in its bill as required by statute that Margaret Francisco or her heirs or devisees, claimed said parcel of land, that it did not make said Margaret Francisco or her heirs or

devisees a party or parties to said bill, did not cause process to be served on them or publish notice to them as required by statute, and that said decree of Oct., 10, 1927, had no effect to vest in Old Spanish Fort Development Company a title to said four acre parcel which it did not establish by legal evidence in the cause, and which it in fact did not have, and complainants further pray that on final hearing of this cause this Honorable Court be pleased to enter its decree quieting complainants' title to said four acre parcel against said decree of Oct., 10, 1927, and complainants pray for such other or further relief as they are entitled to receive the premises considered.

CAFFEY GALLALEE & CAFFEY, MOBILE, ALABAMA.

AND

THOMPSON & WHITE, BAY MINETTE, ALABAMA.

BY C. L. DeNoir Thompson
Solicitors for Complainant.

STATE OF ALABAMA
BALDWIN COUNTY

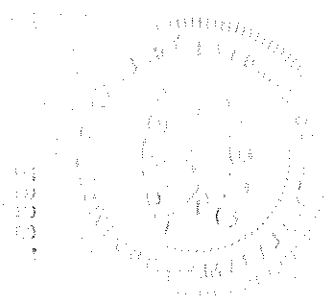
Before me C. DeNoir Thompson, Notary Public in and for said County in said State, personally appeared D. L. MORRIS, who being duly sworn, deposes and says: That the foregoing petition is true and correct to the best of his knowledge, information and belief.

D. L. Morris

Subscribed and sworn to before me this the 27 day of December, 1958.

C. L. DeNoir Thompson
Notary Public, Baldwin County, Alabama.

Figure 1. The effect of the α -value on the estimated value of β for the α -value of 0.05, 0.1, 0.2, 0.3, 0.4, 0.5, 0.6, 0.7, 0.8, 0.9, and 1.0. The α -value is the probability of rejecting the null hypothesis of no effect when the null hypothesis is true. The β -value is the probability of rejecting the null hypothesis of no effect when the alternative hypothesis is true. The α -value is the probability of rejecting the null hypothesis of no effect when the null hypothesis is true. The β -value is the probability of rejecting the null hypothesis of no effect when the alternative hypothesis is true.

[illegible]

FILED
DEC 31 1958
ALICE J. DUCK, CLERK
RECEIVED

Exhibit 'A'

State of Alabama,
County of Baldwin.

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-vs-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East in Baldwin County,
Alabama, and any any all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Respondents.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF THE
TWENTY-FIRST JUDICIAL CIRCUIT OF ALABAMA, WHICH INCLUDES THE
COUNTY OF BALDWIN IN SAID STATE:

Your orator, Old Spanish Fort Development Company, a
corporation, brings this its bill of complaint against Sections 38
and 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County,
Alabama, and against any and all persons, firms or corporations claim-
ing any title to, interest in or lien or encumbrance on said lands,
or any part thereof, and your orator respectfully shows unto the Court
and unto your HONOR as follows:

1. That your orator is a corporation incorporated under
the laws of the State of Delaware, but authorized to do business in
the State of Alabama, and with its principal place of business in
Alabama designated as Mobile, Alabama.
2. That the land against which this proceeding is brought
is situated in Baldwin County, State of Alabama, and described as
follows:

Section 38, Township 4 South, Ranges 1 and 2 East, in
Baldwin County, Alabama, and known as the Alexis Truillet or
the Alexis Trouillet Grant, and Section 39, Township 4 South,
Ranges 1 and 2 East, in Baldwin County, Alabama, and known as
the Lefroy Truillet and Idane Chastang Grant, or as the
Lefroy Truillet Grant; said Section 38 being the same land
patented to Alexis Trouillet by a patent recorded in Deed
Book 37 N. S., page 136, of the Public Records of Baldwin
County, Alabama, and said Section 39 being the same property
granted by the Spanish Government to Lefroy Truillet and
Idane Chastang and confirmed by the Acts of Congress of the
United States of America.

3. That your orator is in the actual and peaceable posses-
sion of the lands above described and claims to own the same absolutely

and in fee simple, subject to two certain vendor's liens reserved by those certain instruments, one from Henry Moorer and wife to Agnes B. Lott, recorded in Deed Book 37 N. S. at page 503-4, and the other from Agnes B. Lott and husband to Hiram H. Maynard recorded in Deed Book 37 N. S. at page 551-3, of the Public Records of Baldwin County, Alabama; that no suit is pending to test its title to, interest in or its right to the possession of said lands; that it acquired the legal title to said lands from Hiram H. Maynard by a deed recorded in Deed Book 40 NS page 534 of the Public Records of Baldwin County, Alabama; that said Hiram H. Maynard acquired said property by and through the following conveyances; Deed from Agnes B. Lott and husband, W. O. Lott, to Hiram H. Maynard recorded in Deed Book 37 N.S., page 551-3; deed from Henry D. Moorer and wife to Agnes B. Lott recorded in Deed Book 37 N.S. page 503-4; deed from W. A. Sibley and wife and Belle E. Sibley, unmarried to Henry D. Moorer recorded in Deed Book 37 N.S. at page 502-3; deed from Augustus W. Sibley, a widower, to W. A. Sibley and Belle E. Sibley recorded in Deed Book 30 N.S. at page 390; deed from Cyrus Sibley to Augustus W. Sibley recorded in Deed Book H, page 506; that Cyrus Sibley acquired said property by and through the conveyance, patents and confirmations of title hereinafter set out:

Grant from the Spanish Government to Lefroy Trouillet and Idane Chastang, recorded in Record 2, page 63-66, translated record of the public records of Mobile County, Alabama, and confirmation of said grant by the Acts of Congress of the United States of America;

Incomplete grant by the Spanish Government to Alexis Trouillet as shown by American State Papers, Volume 3, page 397, and confirmation of said grant by an Act of Congress of May 8th, 1822, and patent issued on said confirmation and recorded in the public records of Baldwin County, Alabama, in Deed Book 37 N. S. at page 136;

Deed from Antoine Trouillet, David Roberson and Emeline L. Roberson, his wife, to Jonathan Johns, recorded in Deed Book E, pages 337-8;

Deed from Ethelbert Brantley, guardian for Eliza J. Johns and Chloe E. Johns, minor heirs of Jonathan Johns, deceased, to Cyrus Sibley, recorded in Deed Book F, pages 351-2;

Deed from Ransom W. Matthews and Elizabeth Amanda Matthews, his wife, to Cyrus Sibley, recorded in Deed Book F, pages 332-3;

Deed from Antoine Trouillet, David Robinson and Emeline Lloyd Robinson, his wife, to Cyrus Sibley, recorded in Deed Book No. 21 N. S., pages 646-7;

Deed from Simon Chestang, Saustin Chestang, Etunne Sertonis Raymond and Claire Chestang, wife, Gertrude Guzon, formerly Gertrude Chestang, heirs of Sidonne Chestang to Augusto Savisson, recorded in Book E, pages 127-8;

Auguste Lavisson to James Clough, recorded in Deed Book H, pages 287-8;

Certificate of Survey of John James, U. S., Deputy Surveyor, and accompanying plat, recorded in Deed Book E, page 248;

Deed from Franklin C. Heard to George R. Griffith, recorded in Deed Book E, pages 249-50;

Deed from Ethelbert Brantley and Chloe Brantley to Cyrus Sibley, recorded in Deed Book G, page 59.

All references in this bill to recorded instruments refer to the public records in the Probate Office of Baldwin County, Alabama.

That while said Augustus W. Sibley was the owner and in possession of said tracts of land above described he, the said Augustus W. Sibley, and his wife, Ada A. Sibley, attempted to convey, by a deed dated May 18th, 1874, and recorded in Deed Book K, pages 487-8, to Margaret Francisco property described as follows:

"That certain tract, piece or parcel of land situate in said county and state and described as follows, to-wit:- Commencing at the water's edge on the north boundary line of the Alexis Trouillet tract and running thence east 12.64 chains; thence south 3.16 chains; thence west to the water's edge; thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort and containing about 4 acres and being a part of the Alexis Trouillet Tract lying in township four

south of range one and two east in said state and county."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated October 8th, 1879, and recorded in Deed Book L, pages 308-9, attempted to convey to Joseph Salva property described as follows:

"Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south or range two east."

That the said August W. Sibley and Ada A. Sibley, his wife, by warranty deed dated January 10th, 1879, recorded in Deed Book K, pages 261-2, attempted to convey to Charles Wilson property described as follows:

The following described tract or lot of land:- "Commence at an entwined poplar and black gum on the south side of Bayou Minette Bay, at a point bearing south 58½ deg. East from a point of march on the south side and at the mouth of said Bay, running thence South 52 deg. E. 9.48 chains to a post, thence North 38 deg. E. 6.32 chains to a post, thence north 52 deg. W. 9.48 chains to a poplar on the south bank of Bayou Minette Bay containing 6 acres and being a portion of the Lefroy Trouillette Tract in Township four south and ranges one and two east."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated June 4th, 1879, and recorded in Deed Book Q, pages 516-7, attempted to convey to Thomas Domingo property described as follows:

"Commencing at a point 12½--100 chains north 2 deg. 30' west from the southeast corner of a lot of 5 acres described in a survey made at the instance of A. W. Sibley on the 28 day of May, 1879, and conveyed to Jos. Barnard and others; running thence south 87 deg. 30' East 9.48 chains to a post, 3½ chains 2 deg. 30' from the southeast corner of a lot of land surveyed for Jos. Barnard, thence north 2 deg. and 30' east on the east line of Barnard's lot, containing 3 acres and lying in township four south of range two east and being a portion of the Lefroy Trouillette Claim in Baldwin County, Alabama."

That the said A. W. Sibley, a widower, by quitclaim deed dated August 30th, 1912, and recorded in Deed Book 19 N. S., page 395, conveyed to Guy Edward Loxley property described as follows:

65 "All that real property in Baldwin County, Alabama, described as follows: Start at the mouth of Spanish Fort Branch, being the southwest corner of the Lefray Trouillette

Grant, and run north 1.69 for a beginning corner from thence run north 52 degrees East 8 chains to a stake in the bluff north side of Spanish Fort thence north 45 degrees west 12 chains to the bank of Bay Minette, Creek thence down the east margin of said creek to the place of beginning, containing 4 acres, more or less and being fractional part of Lefray Trouillette grant in township four south of range two and one east."

That the said A. W. Sibley also, by quitclaim deed dated June 3rd, 1914, and recorded in Deed Book 21 N. S., page 610, conveyed to the said Guy Edward Loxley property described as follows:

"In Baldwin County, Alabama, described as follows, to-wit:-Start at the mouth of Spanish Fort branch, run north along the margin of Bay Minette Creek 1.69 chains for a beginning corner, thence north 52 deg. E. 8 chains to a stake at the bluff north side Spanish Fort; thence north 45 deg. West 5.12 chains to the Bank of Bay Minette Creek, thence down the east margin of said Creek to the place of beginning, containing 4 acres, more or less and being a fractional part of the Lefroy Trouillette Grant, section thirty-nine, all in township four south of range two east."

And your orator avers that both of said deeds last mentioned were intended to cover the same lands and that the latter deed was given to correct the description in the former deed; that by deed from Agnes B. Lott and husband to Hiram H. Maynard, recorded in Deed Record 37 N. S., page 395, and by deed from Hiram H. Maynard to your orator, recorded in Deed Record 40 N. S., page 535, your orator has acquired the legal title to said property which was originally deeded by the said Augustus W. Sibley to Guy Edward Loxley by the two conveyances to the said Guy Edward Loxley herein referred to.

Your orator avers that the description in the said deed from the said Augustus W. Sibley to Joseph Salva and the description in the said deed from Augustus W. Sibley to Thomas Domingo and the description in the said deed from Augustus W. Sibley to Charles Wilson are each and all void for uncertainty, and that, while it was the purpose of the said Augustus W. Sibley to convey to the respective grantees in said deeds certain tracts of land situated in either one or the other of the said grants above described as Sections 38 and 39, yet, because of said descriptions being so indefinite as to render it impossible to locate the lands intended to be described therein, each and all of said conveyances were not effective as deeds, and that the

title to the area attempted to be conveyed thereby has passed to your orator by reason of the deeds hereinabove referred to; that your orator has made diligent inquiry to ascertain who was in possession of and who claimed to own each and all of the said respective pieces of land, and that in such effort to so ascertain such possession and ownership your orator has caused the tax records in Baldwin County, Alabama, to be examined, and that it has caused diligent inquiry to be made from persons residing in the community where said lands are situated and that it has caused its agents to go over said lands and examine the same to see who, if anyone, was in possession of any part thereof, and after all of such inquiry and investigation on its part as aforesaid it is unable to ascertain that any person other than one William Mastin, alias William Merchant, who resides in Mobile County, claims any right, title or interest in and to either of said tracts or parcels of land above described; that your orator is informed and believes, and upon such information and belief avers, that the said William Mastin, alias William Merchant, is in possession of one of said tracts of land last above described but, on account of the indefinite descriptions in said deeds as aforesaid, your orator is not able to say with certainty which of said pieces or parcels of land the said Mastin claims or is in possession of; and that no other person is in possession of any of said tracts or parcels, nor, so far as orator knows or can ascertain, does any other person claim the same or any part thereof, or any interest therein. While your orator contends that each and all of the said conveyances last above set out are void for uncertainty in description, yet if any person, firm or corporation claims to own either of said pieces or parcels of land your orator here calls upon said person, firm or corporation to come into Court and set forth and specify his claim, right, title or interest in and to said parcel of land and by proper evidence introduced show to the Court the true and correct location of the tract or tracts which he or they claim to own or possess.

4. That the title to so much of the above described lands as lie in Township 4 South, Range 2 East, stands on the records of Baldwin County, Alabama, in the name of your orator, and that the title to so much of the above described lands as lie in Township 4 South,

Range 1 East, stands upon the records of Baldwin County, Alabama, in the name of Cyrus Sibley; that said Sections 38 and 39 are what are commonly known as Spanish Grants and the township line between Townships 1 East and 2 East, if projected across said grants, would leave a small portion of each of said grants in Township 4 South, Range 1 East, a true plat of said property showing its relation to said township line if projected being hereto attached, marked Exhibit "A" and prayed to be taken and considered as a part of this bill of complaint.

The said deed from Cyrus Sibley to Augustus W. Sibley, a true copy of which is hereto attached and marked Exhibit, "B" conveyed the following lands:

"All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the Academy."

But your orator avers that the true intent and purpose of the deed from Cyrus Sibley to Augustus W. Sibley, above referred to, was to convey all of Section 38 and all of Section 39, above described.

5. That on and after July 27th, 1865, the date on which Cyrus Sibley executed his deed to Augustus W. Sibley, above referred to, the said Augustus W. Sibley immediately went into possession of, and since that date, up to the date of his deed to W. A. Sibley and Belle E. Sibley, above referred to, remained in possession of and claimed to own all of Sections 38 and 39, Township 4 South, Ranges 1 and 2 East; except said tracts or parcels sold by the said Augustus W. Sibley by the several deeds above referred to; that on and after January 13th, 1921, W. A. Sibley and Belle E. Sibley went into possession of all of said Sections 38 and 39 and claimed to own the same up to the time that they deeded the same to Henry D. Moorer by deed hereinabove referred to; that your orator

and those under whom it claims have regularly assessed said lands for taxation and have paid the taxes thereon since July 27th, 1865, and including the ten years next preceding the filing of this bill, and that no other person has paid taxes on said lands, or any part thereof, or any interest therein, nor has any other person had any possession of any part of said lands, during any part of the said period of the ten years next preceding the filing of this bill; and that so far as your orator knows no one claims said lands, or any interest therein, other than your orator, except Wesley R. Sibley who resides at Creola, Mobile County, Alabama and Clarence E. Sibley, who resides at Mobile, Mobile County, Alabama; that your orator is informed, and on such information and belief alleges, that said persons claim some right, title or interest in said lands through inheritance from Cyrus Sibley, but your orator avers that said persons have in fact no valid title or claim in and to said lands or any part thereof.

6. That your orator brings this its bill of complaint against the land above described and against any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, and to establish the right or title of your orator to such lands and to clear up all doubts or disputes concerning the same.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your orator prays that the lands hereinabove described, and any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be made parties defendant to this bill of complaint, and that the usual and proper process of this Honorable Court be issued and served as required by law, to the end that all persons, firms and corporations who claim said lands, or any interest therein or encumbrances thereon, may be required to appear, demur, plead to or answer this bill of complaint ~~within~~ within the time prescribed by law and under the rules of this Honorable Court.

Orator prays that any and all persons, firms and corporations

claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be required to set forth and specify such claim, right, title, interest, lien or encumbrance, and how and by what instrument the same is derived or created; and that upon the final hearing of this cause it will be ordered, adjudged and decreed by the Court that your orators at the time of the filing of this bill of complaint had the legal title to the above described lands and that no other person, firm or corporation has any right, title or interest therein or thereto, or to any part thereof, or any lien or encumbrance thereon, and that all doubts and disputes concerning said title may be cleared up and your orator's title to said lands fully and completely quieted. And your orator prays for such other, further, different and general relief as in equity and good conscience it may be entitled to receive in the premises, and your orator will ever pray, etc.

Old Spanish Fort Development Co., a Corporation,

BY /s/ Carter Smith

Secy.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

FOOT NOTE:

All persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the lands described in this bill or any part thereof and all persons desiring to intervene hereunder, are required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, answer under oath being hereby expressly waived.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

State of Alabama,
Mobile County,

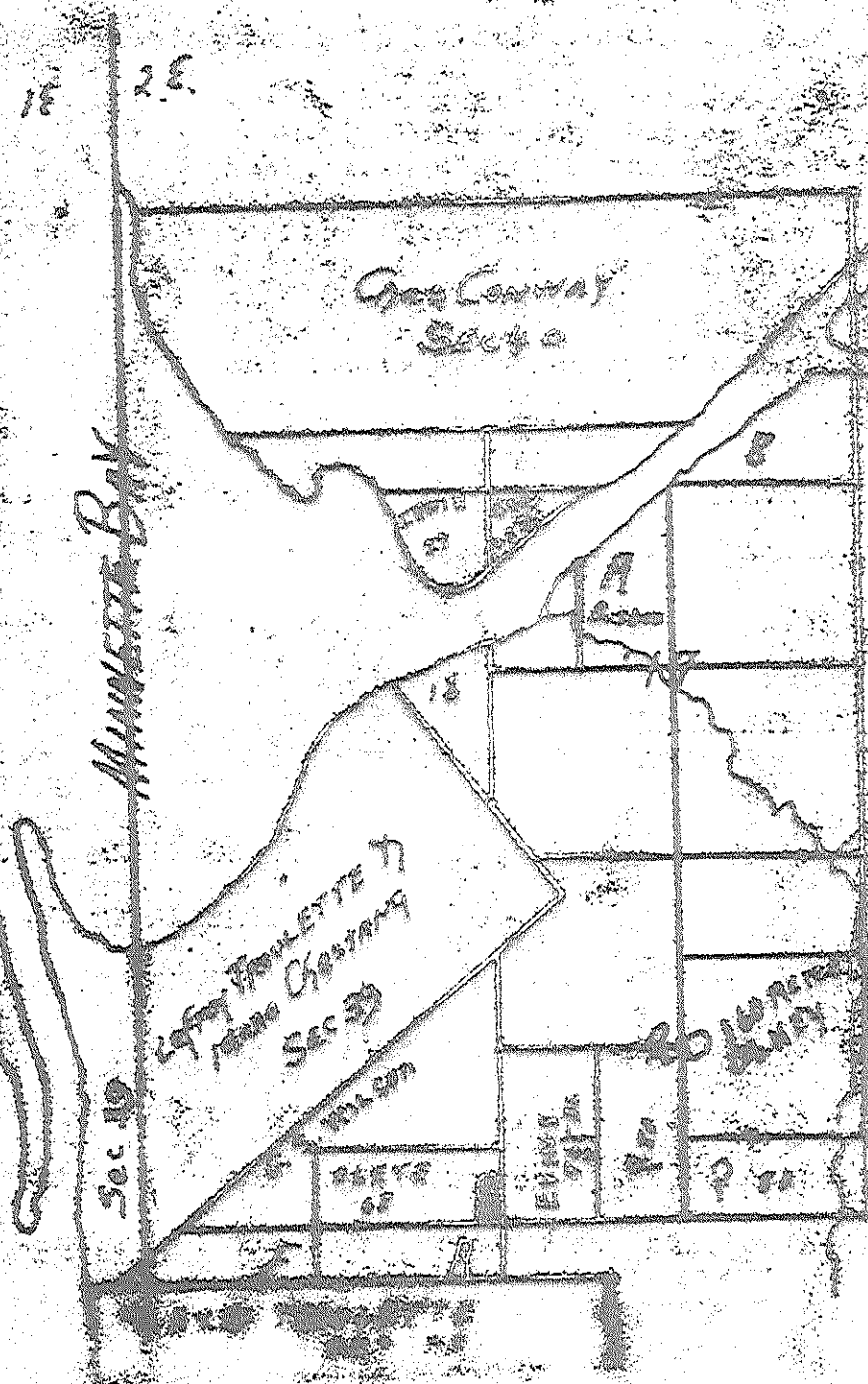
Before me, Chas L. Rehm, a Notary Public, in and for said County in said State this day personally appeared Carter Smith as Secretary of Old Spanish Fort Development Company, Complainant, by whom the foregoing bill of complaint is signed and who being first duly sworn by me, deposes and says on oath that the facts alleged in said bill of complaint are true and correct and that all matters alleged in said bill, as on

information and belief, he verily believes to be true.

/s/ Carter Smith.

Sworn to and subscribed before
me this 18th day of May, 1927.

/s/ Chas. L. Rehm.
Notary Public, Mobile County, Alabama.



MISSISSIPPI "A"

KNOW ALL MEN BY THESE PRESENTS, That I, Cyrus Sibley, of the County of Baldwin, State of Alabama, in consideration of the love and affection I have and bear towards my son Augustus W. Sibley, and for the purpose of making a partial division of my property among my children, do hereby give, grant, convey and confirm unto the said Augustus W. all the following lands in Baldwin County in said State, to-wit:-

All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the Academy.

TO HAVE AND TO HOLD unto him, the said Augustus W. Sibley, and to his heirs and assigns FOREVER.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 27th day of July, 1865.

/s/ CYRUS SIBLEY.

ATTEST:
JAMES BOND,
D. C. ANDERSON.

STATE OF ALABAMA,)

BALDWIN COUNTY.)

I, William Brooks, a Justice of the Peace for said County do hereby certify that Cyrus Sibley, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 27th., day of July, 1865.

/s/ WILLIAM BROOKS,
Justice of the Peace.

Received for record July 31st, 1865.
Recorded: August 3rd., 1865.
C. W. Wilkins,
Judge of Probate.

[illegible][illegible][illegible]

FILED
DEC 31 1958
ALICE J. DUCK, CLERK
REGISTER

C
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Exhibit B

State of Alabama,

County of Baldwin

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

Old Spanish Fort Development Company, a corporation,)
)
)
Complainant,)
)
-vs.-)
)
Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and any and all persons, firms or corporations claiming any title to, interest in, or lien or encumbrance on said lands, or any part thereof.)
)
Respondents.)

F I N A L D E C R E E .

This cause coming on to be heard is submitted for a final decree on the original bill of complaint filed in this cause on the 19th day of May, 1927, and the exhibits thereto; the order of the Judge of this Court dated May 19th, 1927, directing that publication in said cause be made in The Baldwin Times; the notice of publication signed by the Register of the Court on the 19th day of May, 1927, showing the pendency of said bill of complaint; proof of service of copy of said notice on Clarence E. Sibley, Wesley L. Sibley and William Mastin named in said bill of complaint; a copy of said notice duly recorded in the Probate Office of Baldwin County, Alabama, on May 20th, 1927, and proof of the due record of such notice; proof of the publication of said notice once a week for four consecutive weeks in The Baldwin Times, a newspaper published in Baldwin County, Alabama, being the County where the lands described in such bill lie; and the evidence offered by the Complainant in said cause as shown by the Note of Testimony herein, and thereupon the Court ascertains and decrees that this cause is at issue.

Upon consideration of said cause the Court ascertains that the Complainant, Old Spanish Fort Development Company, a corporation, was, at the time it filed its bill in this cause, and on the date of this decree is in the actual and peaceable possession of all of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Sections 39, Township 4 South, Ranges 1 and 2 East, in Baldwin

County, Alabama, known as the Lefroy Truillet and Idane Chastang Grant or as the Lefroy Truillet Grant, except a certain three acre tract along the North boundary line of said Section 39 described as follows:

Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south of range two east;

that the Complainant and those under whom it claims as shown by the several deeds introduced in evidence and noted, have paid taxes on said Sections 38 and 39 for the period of ten years and longer, and that no other person has paid taxes thereon during any part of said period; that no other suit is pending to test Complainant's title to, interest in or its right to the possession of such lands; and that Complainant now holds and owns the complete equitable and legal title to all of said Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, except the three acre tract above described.

It further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated January 10th, 1879, and recorded in Deed Book "K", at pages 261-2 of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley attempted to convey a certain six acre tract described in said deed to Charles Wilson, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

And it further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated June 4th, 1879, and recorded in Deed Book "Q", pages 516-7, of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley

3.
attempted to convey a certain three-acre tract described in said deed to Thomas Domingo, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

It is now, therefore, hereby considered, adjudged and decreed by the Court that the Complainant, Old Spanish Fort Development Company, is the true and lawful owner, in fee simple, of the following property described in said bill of complaint:

All of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Lefroy Truillet and Idane Chastang Grant, and sometimes as the Lefroy Truillet Grant, except a certain three-acre tract on the North boundary thereof described as follows: Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an X and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in Township Four South of Range Two East, and in the possession of and claimed by William Mastin;

And that the title thereto is in the Complainant, Old Spanish Fort Development Company; that the Complainant have judgment as prayed for in its bill of complaint against said land and against any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, and that the claim or claims of any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, are hereby adjudged and decreed to be invalid, groundless and of no effect, and that Complainant's title to said lands is hereby quieted against all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof.

It is further ordered, adjudged and decreed that the Register of this Court shall, within thirty days from the rendition of this decree, prepare and file a certified copy thereof in the Office of

the Judge of Probate of Baldwin County, Alabama, for record, and tax the expense thereof as a part of the costs in this cause, and it is further ordered and directed that the Judge of Probate shall record such copy in the same book and in the same manner in which deeds are recorded, and index the same in the name of Alexis Trouillet, Idane Chastang, Lefroy Truillet and Cyrus Sibley in the Direct Index, and in the name of Old Spanish Fort Development Company in the Reverse Index.

It is further ordered, adjudged and decreed that the title herein established in the Complainant shall inure to the benefit of all persons who derive title to said lands, or any interest therein, from or through the Complainant, Old Spanish Fort Development Company.

It is further ordered, adjudged and decreed that this decree shall in no wise affect the said vendor's liens reserved by those certain instruments referred to in the bill of complaint, Complainant's title being quieted subject to the rights of the holders of said vendor's liens and the debts secured thereby.

It is further ordered, adjudged and decreed that the Complainant be taxed with all costs incurred in this cause, for which let execution issue.

Done in term time this the 10th day of October, 1927.

/s/ John D. Leigh
Judge of the Twenty-first Judicial Circuit
of the State of Alabama.

FILED

DEC 31 1950

ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 11169

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon OLD SPANISH FORT DEVELOPMENT COMPANY, a corporation
and its successors or assigns, viz: Merchants National Banking corporation.
individually and as Trustee and George E. Fuller and Patricia B. Fuller

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against OLD SPANISH FORT
DEVELOPMENT COMPANY, a corporation Et als, Defendant.

by J.D. MORRIS and D.J. MORRIS

Plaintiff.

Witness my hand this 31 day of December 1958

Alice J. Luck, Clerk

No. 4469

Page _____

The State of Alabama

Baldwin County

CIRCUIT COURT

J.D. MORRIS and D.L. MORRIS

Plaintiffs

vs.

OLD SPANISH FORT DEVELOPMENT COMPANY

a corporation and Et als

Defendants

Summons and Complaint

Filed Dec. 31 1958

Alice J. Duck Clerk

Returned 23 day of March 1959

For found to be county and Attorney at law and in

quiry, as to Old Spanish Fort Development

Co., a Corp Taylor Williams & Co.

By Taylor Williams & Co.

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

19

, Sheriff

I have executed this summons

this 19

by leaving a copy with

Mr. J. B. T. Blanton
Deputy Sheriff
County of Baldwin
State of Alabama
at the residence of
George E. Feller and Patricia
Feller

2-5-1959 Service
accepted for the
Mechanics National
Bank as trustee
and for George E.
Feller and Patricia
Feller
J.B. T. Blanton
as their Attorney

Sheriff

Deputy Sheriff

J. D. MORRIS and D. L. MORRIS,)	
)	
Complainants,)	
VS.	)	IN THE CIRCUIT COURT OF
)	
	)	BALDWIN COUNTY, ALABAMA
OLD SPANISH FORT DEVELOPMENT)	
COMPANY, a corporation, ET AL.,	)	IN EQUITY NO. 4469
)	
Respondents.)	

DEMURRER

I.

Now come the respondents, Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patrice B. Fuller, each separately and severally, and demur to the Bill of Complaint filed against them in this cause and as grounds of such demurrer assign, separately and severally, the following:

1. There is no equity in the Bill of Complaint.
2. No facts are alleged on which any relief against these respondents can be granted.
3. It does not allege that any fraud was practiced by the complainant in filing the suit to quiet title which is described therein.
4. No facts are alleged to show that any fraud was practiced by the complainant in prosecuting the suit to quiet title which is described therein.
5. It does not allege that any fraud was practiced by the complainant or by anyone acting for it in filing the suit to quiet title which is described therein.
6. It does not allege that any fraud was practiced by the complainant or by anyone acting for it in prosecuting the suit to quiet title which is described therein.
7. It affirmatively appears that the complainant's alleged action is barred by laches.
8. It affirmatively appears that the complainant's alleged action is barred by the statute of limitations of one year.
9. It affirmatively appears that the complainant's alleged action is barred by the statute of limitations of three years.
10. It affirmatively appears that the complainant's alleged

action is barred by the statute of limitations of ten years.

11. It affirmatively appears that the complainant's alleged action is barred by the statute of limitations of twenty years.

12. It affirmatively appears that the complainant's alleged cause of action is barred by the doctrine of prescription of twenty years.

13. No facts are alleged to show that the complainants secured permission from the Supreme Court of Alabama to file this proceeding.

14. No facts are alleged to show when the complainants discovered the facts which are alleged in their said Bill of Complaint.

II.

Now come the respondents, Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patrice B. Fuller, each separately and severally, and demur to that aspect of the Bill of Complaint by which the complainants are seeking an order staying the judgment in ejectment in favor of these respondents, which is described in the Bill of Complaint, and as grounds of such demurrer assign, separately and severally, grounds Numbered 1 through 14, both inclusive, which are set out above, just as though the said grounds Numbered 1 through 14, both inclusive, were specifically rewritten here.

III.

Now come the respondents, Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patrice B. Fuller, each separately and severally, and demur to that aspect of the Bill of Complaint in and by which the complainants are seeking to review the decree of the Circuit Court of Baldwin County, Alabama, in Equity, dated October 10, 1927, which is described in the Bill of Complaint, and as grounds of such demurrer assign, separately and severally, grounds Numbered 1 through 14, both inclusive, which are set out above, just as though the said grounds Numbered 1 through 14, both inclusive, were specifically rewritten here.

IV.

Now come the respondents, Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patrice B. Fuller, each separately and severally, and demur to the Bill of Review aspect of the Bill of Complaint, and as grounds of such demurrer assign, separately and severally, grounds numbered 1 through 14, both inclusive, which are set out above, just as though the said grounds numbered 1 through 14, both inclusive, were specifically rewritten here.

Filed

Mar. 21, 1959

Miss J. Luck

J. B. Blackburn

McCORVEY, TURNER, JOHNSTONE, ADAMS AND MAY

By

Ben H. Turner

(TS)

Attorneys for the said respondents

State of Alabama,

County of Baldwin

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-VS.-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East, in Baldwin County,
Alabama, and any and all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Respondents.

F I N A L D E C R E E .

This cause coming on to be heard is submitted for a final decree on the original bill of complaint filed in this cause on the 19th day of May, 1927, and the exhibits thereto; the order of the Judge of this Court dated May 19th, 1927, directing that publication in said cause be made in The Baldwin Times; the notice of publication signed by the Register of the Court on the 19th day of May, 1927, showing the pendency of said bill of complaint; proof of service of copy of said notice on Clarence E. Sibley, Wesley L. Sibley and William Mastin named in said bill of complaint; a copy of said notice duly recorded in the Probate Office of Baldwin County, Alabama, on May 20th, 1927, and proof of the due record of such notice; proof of the publication of said notice once a week for four consecutive weeks in The Baldwin Times, a newspaper published in Baldwin County, Alabama, being the County where the lands described in such bill lie; and the evidence offered by the Complainant in said cause as shown by the Note of Testimony herein, and thereupon the Court ascertains and decrees that this cause is at issue.

Upon consideration of said cause the Court ascertains that the Complainant, Old Spanish Fort Development Company, a corporation, was, at the time it filed its bill in this cause, and on the date of this decree is in the actual and peaceable possession of all of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Sections 39, Township 4 South, Ranges 1 and 2 East, in Baldwin

County, Alabama, known as the Lefroy Truillet and Idane Chastang Grant or as the Lefroy Truillet Grant, except a certain three acre tract along the North boundary line of said Section 39 described as follows:

Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minnette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south of range two east;

that the Complainant and those under whom it claims as shown by the several deeds introduced in evidence and noted, have paid taxes on said Sections 38 and 39 for the period of ten years and longer, and that no other person has paid taxes thereon during any part of said period; that no other suit is pending to test Complainant's title to, interest in or its right to the possession of such lands; and that Complainant now holds and owns the complete equitable and legal title to all of said Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, except the three acre tract above described.

It further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated January 10th, 1879, and recorded in Deed Book "K", at pages 261-2 of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley attempted to convey a certain six acre tract described in said deed to Charles Wilson, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

And it further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated June 4th, 1879, and recorded in Deed Book "Q", pages 516-7, of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley

3.
attempted to convey a certain three-acre tract described in said deed to Thomas Domingo, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

It is now, therefore, hereby considered, adjudged and decreed by the Court that the Complainant, Old Spanish Fort Development Company, is the true and lawful owner, in fee simple, of the following property described in said bill of complaint:

All of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Lefroy Truillet and Idane Chastang Grant, and sometimes as the Lefroy Truillet Grant, except a certain three-acre tract on the North boundary thereof described as follows: Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an X and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in Township Four South of Range Two East, and in the possession of and claimed by William Mastin;

And that the title thereto is in the Complainant, Old Spanish Fort Development Company; that the Complainant have judgment as prayed for in its bill of complaint against said land and against any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, and that the claim or claims of any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, are hereby adjudged and decreed to be invalid, groundless and of no effect, and that Complainant's title to said lands is hereby quieted against all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof.

It is further ordered, adjudged and decreed that the Register of this Court shall, within thirty days from the rendition of this decree, prepare and file a certified copy thereof in the Office of

the Judge of Probate of Baldwin County, Alabama, for record, and tax the expense thereof as a part of the costs in this cause, and it is further ordered and directed that the Judge of Probate shall record such copy in the same book and in the same manner in which deeds are recorded, and index the same in the name of Alexis Trouillet, Idane Chastang, Lefroy Truillet and Cyrus Sibley in the Direct Index, and in the name of Old Spanish Fort Development Company in the Reverse Index.

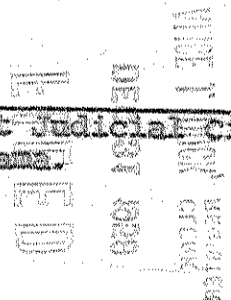
It is further ordered, adjudged and decreed that the title herein established in the Complainant shall inure to the benefit of all persons who derive title to said lands, or any interest therein, from or through the Complainant, Old Spanish Fort Development Company.

It is further ordered, adjudged and decreed that this decree shall in no wise affect the said vendor's liens reserved by those certain instruments referred to in the bill of complaint, Complainant's title being quieted subject to the rights of the holders of said vendor's liens and the debts secured thereby.

It is further ordered, adjudged and decreed that the Complainant be taxed with all costs incurred in this cause, for which let execution issue.

Done in term time this the 10th day of October, 1927.

/s/ John D. Leigh
 Judge of the Twenty-first Judicial Circuit
 of the State of Alabama.



the Judge of Probate of Baldwin County, Alabama, for record, and tax the expenses thereof as a part of the costs in this cause, and it is further ordered and directed that the Judge of Probate shall record such copy in the same book and in the same manner in which deeds are recorded, and index the same in the name of Alaska Trusts, Inc., and that the Judge of Probate shall also index in the Direct Index, and in the name of Old Spanish Fort Development Company in the Reverse Index.

It is further ordered, adjudged and decreed that the title herein established in the Complaint shall issue to the benefit of all persons who derive title to said lands, or any interest therein, from or through the Complaint, Old Spanish Fort Development Company. It is further ordered, adjudged and decreed that this decree shall in no wise affect the said vendor's liens reserved by those certain instruments referred to in the bill of complaint, and plaintiff's title being quieted subject to the rights of the holders of said vendor's liens and the debts secured thereby. It is further ordered, adjudged and decreed that the Complaint be taxed with all costs incurred in this cause, for which let execution issue. Done in term then this 10th day of October, 1937.

NOTED
J. J. JURY, CLERK
REGISTER

DEC 31 1938

FILED

of the State of Alabama
Judge of the Twenty-First Judicial Circuit

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 1469

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon OLD SPANISH FORT DEVELOPMENT COMPANY, a corporation
and its successors or assigns, viz: Merchants National Banking corporation,
individually and as Trustee and George E. Fuller and Patricia E. Muller

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against OLD SPANISH FORT
DEVELOPMENT COMPANY, a corporation Et. als, Defendant
by J.D. MORRIS and D.L. MORRIS

-----, Plaintiff
Witness my hand this 31 day of December 1958

Alice J. Luck, Clerk

No. 1-62

Page. _____

The State of Alabama

Baldwin County

CIRCUIT COURT

J. MORRIS and D.L. MORRIS

Plaintiffs

vs.

OLD SPANISH FORT DEVELOPMENT COMPANY

a corporation and Et als

Defendants

Summons and Complaint

Filed Dec. 31, 1956 19____

Alice J. Smith Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

19____

_____, Sheriff

I have executed this summons

this _____ 19____

by leaving a copy with

_____, Sheriff

_____, Deputy Sheriff

J. D. MORRIS and
D. L. MORRIS

Complainants

VS

OLD SPANISH FORT DEVELOPMENT
COMPANY, a corporation, and
its successors or assigns, viz:
Merchants National Bank of
Mobile, a banking corporation,
individually and as Trustee and
George E. Fuller and Patricia B.
Fuller

Respondents

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

NO _____

TO THE CIRCUIT COURT OF BALDWIN COUNTY, SITTING IN EQUITY:

Now come your Complainants, J. D. Morris and D. L. Morris, and bring this, their Bill of Complaint, against Old Spanish Fort Development Company, a corporation, Merchants National Bank of Mobile, a banking corporation, individually and as Trustee, and against George E. Fuller and Patricia B. Fuller, and respectfully shows unto this Honorable Court as follows:

ONE

That your Complainants are over the age of twenty-one years and are residents of the State of Alabama, that the Respondent, Old Spanish Fort Development Company, is a corporation incorporated under the laws of the State of Delaware being authorized to do business in the State of Alabama with its principal place of business in Alabama designated as Mobile, Alabama, that the Merchants National Bank of Mobile is a national banking association with its principal place of business at Mobile, Alabama, and that the said George E. Fuller and Patricia B. Fuller are residents of Baldwin County, Alabama, and are over twenty-one years of age.

TWO

Complainants aver that on, to-wit, May 18, 1874, Augustus W. Sibley was the owner of and in possession of Section

38, Township 4 South, Ranges 1 and 2 East in Baldwin County, Alabama, known as the Alexis Trouillet or Trouillette Tract or grant and, as part of said Section 38, was the owner of and in possession of a four acre parcel of land beginning at a point where the North line of the said Alexis Trouillet or Trouillette Tract intersects the water's edge of the body of water bounding said tract or grant on the West, namely Appalachee River, and Complainants aver that on, to-wit, said date, said Augustus W. Sibley then being the owner and in possession thereof, conveyed to Margaret Francisco said four acre parcel of land in Baldwin County, Alabama, from and out of said Section 38, said four acre parcel being more particularly described as follows:

Commencing at the water's edge on the North boundary line of the Alexis Trouillet tract and running thence East 12.64 chains, thence South 3.16 chains, thence West to the water's edge, thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort, and containing about 4 acres and being a part of the Alexis Trouillet Tract and lying in Township four south, Range One and Two East in said State and County.

Complainants further aver that said Margaret Francisco was put or let into possession of said 4 acre parcel of land, so sold and conveyed to her, by her said grantor, built a house on and used and occupied said parcel of land during her lifetime.

THREE

Complainants further aver that Margaret Francisco died intestate leaving as her sole heir at law and next of kin Josephine Francisco Alexander, who went into possession of and held continuous open, notorious, adverse possession of said parcel of land during her lifetime, claiming to own the same and that Josephine Francisco Alexander died intestate leaving as her sole heir at law and next of kin, John Alexander, a bachelor, who went into possession of said parcel of land on the death of his said mother and continued in the open, notorious adverse possession thereof until he conveyed the same to

Complainants by deed dated November 14, 1941, recorded in deed Book 76 N.S. pages 243-244 of the records in the Office of the Judge of Probate of Baldwin County, Alabama.

FOUR

Complainants further aver that on, to-wit, May 19, 1927, the Respondent Old Spanish Fort Development Company, a corporation, filed in the Circuit Court of the Twenty-first Judicial Circuit of Alabama which on said date included Baldwin County, Alabama, a Bill of Complaint to quiet title against Sections 38 and 39, Township 4 South, Ranges 1 and 2 East in said Baldwin County, copy of which said Complaint with the record of service thereon is attached hereto as Exhibit A and by reference made part thereof.

FIVE

Complainants aver that at and prior to the time of filing of said Bill of Complaint, Old Spanish Fort Development Company knew, or had notice, that Augustus W. Sibley under whom it claims title, owned all of said Section 38 prior to and on the 18th day of May, 1874, and that on said date he, being the owner thereof, had conveyed a four acre lot or parcel of land from and out of said Section 38 to Margaret Francisco, said conveyance appearing in complainant's chain of title by the record of the deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated May 18, 1874, and recorded in Deed Book K, pages 487-488 of the records of the Probate Court of Baldwin County, Alabama.

Complainants further aver that at the time of the filing of said Bill of Complaint and long prior thereto, said Old Spanish Fort Development Company knew or had notice from the following recorded deeds in its chain of title that Margaret Francisco had acquired title to said four acre parcel of land in Section 38 under the aforesaid deed and that said Old Spanish Fort Development Company had acquired no right, title or interest therein, namely:-

(1) Deed from W. A. Sibley and wife to Henry D. Moorer dated November 9, 1925, and recorded in Deed Book 37 N.S. page 502 of the Baldwin County records which purports to convey all of said Section 38 known as the Alexis Trouillette Grant less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

(2) Deed from Henry D. Moorer and wife to Agnes B. Lott, dated November 10, 1925, recorded in Deed Book 37 N.S., page 503, purporting to convey all of said Section 38 known as the Alexis Trouillette Tract less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

(3) Deed from Agnes B. Lott and husband to Hiram H. Maynard, dated November 10, 1925, recorded in Deed Book 37 N.S. pages 551-553 of said Baldwin County records purporting to convey all of said Section 38 known as the Alexis Trouillette Grant less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K pages 487-488.

(4) Deed from Hiram H. Maynard, bachelor, to Old Spanish Fort Development Company dated April 8, 1926, and recorded in Deed Book 40 N.S., page 534 of the records of the Probate Court of Baldwin County, Alabama, on the 10th day of September 1926, which said deed is alleged in said Bill of Complaint to be and is the basis of the title of the said Old Spanish Fort Development Company, and which said deed purports to convey all of said Section 38 known as the Alexis Trouillette Tract less four acres sold by Augustus W. Sibley to Margaret Francisco by deed recorded in Deed Book K, pages 487-488.

SIX

Complainants further aver that despite the fact that Respondent, Old Spanish Fort Development Company knew or had notice, from the aforesaid recorded deeds in its chain of title and from the very deed under and by virtue of which it claimed title to said Section 38, that it had acquired and had no right, title or interest in or to said four acre parcel of said Section 38

and knew or had notice that Margaret Francisco had acquired title thereto, Old Spanish Fort Development Company did not comply with the provisions of the Statute (Code 1923, Sec. 9913) which specifically required that complainant state in its complaint in whose name the title to the lands involved in said complaint stands upon the records of the Probate Court of the County where the lands are situated, but knowingly alleged that the record title to all of the land described in its said bill, viz, sections 38 and 39, Township 4 South, Ranges 1 and 2 East, stood in the name of complainant when in truth and in fact it was charged with notice and knew, that title to the aforesaid four acre parcel, stood on the records of the Probate Court of Baldwin County in the name of Margaret Francisco.

And Complainants further aver that said Old Spanish Fort Development Company, in its said complaint in said cause did not comply with the provisions of said statute (Code 1923, Sec. 9913) which specifically required that in such a bill of complaint, complainant must state therein who, if anyone, is known to complainant to claim the lands, to which complainant seeks to quiet title, or any part thereof or any interest therein, and shall give in said complaint the residence and address of such person or persons, if known.

Complainants aver that although the records of Baldwin County, and the record of conveyances in the chain of title under which Old Spanish Fort Development Company, claimed title to said Sections 38 and 39, showed that title to said four acre parcel of Section 38, stood in the name of Margaret Francisco, it did not allege said fact in its said bill of complaint, nor did it allege the place of residence or address of said Margaret Francisco or that such place of residence or address was unknown to complainant, nor did said complainant allege that Margaret Francisco was known to the complainant to be dead, nor did said complainant state in said complaint the names and addresses of the heirs or devisees of said Margaret Francisco, or allege that their names and address were

were unknown, nor was it alleged in said complaint that complainant exercised diligence to ascertain whether or not Margaret Francisco was then dead, and if so, the names and addresses of her heirs and devisees, nor did it allege facts as required by said Section 9913 of the Code of Alabama of 1923, sufficient to show the exercise of diligence to ascertain whether Margaret Francisco was dead or to ascertain the names and addresses of her heirs or devisees if she was then dead.

Complainants further aver that said Old Spanish Fort Development Company, in filing and prosecuting said bill of complaint, did not comply with the Statutes governing the quieting of title to real estate in that, although it knew or had notice that Margaret Francisco acquired title to and claimed to own said four acre parcel of land, it did not make said Margaret Francisco a party to said bill of complaint, nor did complainant therein take the steps required by Statute for making Margaret Francisco, her heir or heirs, devisee or devisees, or successor or successors in title, a party or parties to said complaint, or for obtaining service of notice on said Margaret Francisco, her heir, or heirs, devisee or devisees, successor or successors in title by serving notice on them in the same manner that process is served in suits in equity, or by registered mail as provided in Section 9914 of Code of 1923, nor was notice given to said Margaret Francisco, her heir or heirs, devisee or devisees or successor or successors in title by registered mail, nor was any notice published which showed that record title to a portion of said Sections 38 stood in the name of Margaret Francisco, her heirs, devisees or successors in title or which showed complainant was seeking to quiet title against Margaret Francisco or against her heirs, devisees or successors in title.

SEVEN

Complainants aver that Margaret Francisco and her heirs at law, as owners of the legal title to said four acre parcel of land, were in possession thereof and had been in possession thereof since Margaret Francisco acquired title thereto from Augustus W. Sibley

on, to-wit, May 18, 1874, as hereinabove alleged, and that they had never been ousted from possession by Old Spanish Fort Development Company or anyone under whom it claimed title and complainants aver that said bill of complaint does not allege sufficient facts to charge that Margaret Francisco or her heirs or devisees were not in possession of or paying taxes on said four acre parcel of land within 10 years of the filing of the said suit or at the time of the filing of said suit.

And complainants further aver that at the time of the filing of said bill of complaint by Old Spanish Fort Development Company, and for a long time prior thereto, John Alexander was the owner of and was in actual possession of said four acre parcel which he had inherited from his mother, Josephine Francisco Alexander, and was then living in Mobile, Alabama, and complainants aver that Old Spanish Fort Development Company by the exercise of ordinary diligence could and would have learned that he had inherited or was the owner of said parcel of land, and could and would have learned his address so that notice of the said suit to quiet title could have been personally served on him as required by Statute.

EIGHT

Complainants further aver that neither Margaret Francisco nor Josephine Francisco Alexander, nor John Alexander was made a party by name to said bill to quiet title, nor was any one of them served with process or given notice of the filing of said bill as required by statute, nor was Josephine Francisco Alexander or John Alexander made a party to said suit or served with process or given notice of the filing of said suit as an unknown heir or devisee of Margaret Francisco, nor were the heirs or devisees of Margaret Francisco alleged to be unknown and made parties to said suit as unknown parties.

NINE

Complainants aver that despite the fact that the statutes for quieting title were not complied with as hereinabove

alleged, as shown by the bill of complaint in said cause, and in spite of the fact that process was not served on or notice given to Margaret Francisco, or Josephine Francisco Alexander or John Alexander or ^{to} the heirs of Margaret Francisco alleged to be unknown after diligent inquiry, and despite the fact that John Alexander was the owner of & in possession of said four-acre parcel of said Section 38 at the time said bill to quiet title was filed, and in spite of the fact neither the title to nor any interest in said four acre parcel was shown to be in the complainant in said cause, but was shown to be in Margaret Francisco, or if she were dead at the time of the filing of the bill, then in her heirs or devisees, the court in said cause entered a decree, copy of which is hereto attached as Exhibit B, and by reference made part hereof.

TEN

Complainants aver that in, to-wit, November 1941, they in good faith and for a valuable consideration bought the four acre parcel of land in said Section 38, legal title to which was acquired by Margaret Francisco as above alleged, from John Alexander who then owned and was in possession of said four acre parcel, without any knowledge or notice on their part, of the filing of said bill to quiet title or of the decree rendered therein, and were put into possession thereof by said John Alexander, and thereafter continued in the actual peaceable possession thereof without notice of any adverse claim by Old Spanish Fort Development Company or its successor in title, the Merchants National Bank of Mobile, as Trustee, until the latter, together with respondents, George E. Fuller and Patricia B. Fuller, filed a bill in equity, on, to-wit, the 26th day of March, 1946, against complainants, alleging that said bank as Trustee owned all of the aforesaid Section 38, and seeking to enjoin complainants from removing trees or timber from said property and from trespassing on or changing the status thereof in any way or manner.

Complainants aver that after the filing of said bill of complaint, the complainants in this cause continued in the possession of said four acre parcel of said Section 38, and on, to-wit, the 21st day of June, the Merchants National Bank of Mobile, as Trustee, George E. Fuller and Patricia B. Fuller filed a suit in ejectment against complainants in this cause in the Circuit Court of Baldwin County, seeking to recover from complainants lands which included said four acre parcel. Complainants disclaimed title to all of the property sued for except the aforesaid four acre parcel, and the jury in said cause rendered its verdict for defendant for said four acre parcel, a judgment was entered for defendant as to said four acre parcel, whereupon a motion for new trial was made by plaintiffs, and was overruled by the Court on January 15, 1949, whereupon, on, to-wit, March 2, 1949 an appeal was taken by plaintiffs in said cause to the Supreme Court of Alabama by which Court the judgment of the Circuit Court was reversed on, to-wit, the 6th day of October 1949, on the erroneous assertion that the bill filed by Old Spanish Fort Development Company contained all the statutory allegations to confer jurisdiction and that the decree adjudged that they existed, when, in truth & in fact, the bill in said cause failed to contain such necessary jurisdictional allegations as is hereinabove specifically alleged, and complainants predecessors in title were neither made parties to said suit, nor served with process or notice, or given an opportunity to defend against said suit.

ELEVEN

Complainants further aver that the judgment in favor of complainants in this cause in said ejectment suit was reversed and the cause was remanded for further proceedings in the Circuit Court of Baldwin County, and complainants, as defendants in said suit, were held to be bound by the decree in said suit to quiet title and judgment was rendered against them on the ground that the decree in the suit to quiet title was binding on complainants/^{in this cause}

and could not be attacked collaterally, by proof that complainants in fact held the record title to said four acre parcel and said judgment was affirmed on appeal to the Supreme Court of Alabama on, to-wit, May 22, 1958, and a rehearing denied June 12, 1958.

Complainants aver that as a result of the erroneous decision of the Supreme Court on October 6, 1949, followed in the said decision of May 22, 1958, complainants as bona fide purchasers of said four acre parcel of land from John Alexander, who was the owner thereof and in possession thereof at the time the aforesaid bill to quiet title was filed, but who was not made a party to said suit, nor served with process or notice, as required by statute, and who, in fact, had no notice of said proceedings, will be deprived of their title to said four acre parcel of land without due process of law, if said decree in said suit to quiet title is held to be binding on them. Complainants further aver that the aforesaid decree of Octo, 10, 1927, if given the force and effect accorded to it by the aforesaid decisions of the Supreme Court of Alabama, constitutes a cloud on complainants' title to said four acre parcel of said Section 38, and complainants bring this their bill of complaint, for a direct determination of the force and effect of said decree on complainants' title, and to this end seek a construction of the allegations of the bill of complaint in said suit to quiet title, and a determination, from the record in said cause, of whether complainants' predecessor in title, John Alexander, was deprived of or debarred from asserting his title to said four acre parcel of land.

TWELVE

Complainants aver that at the time of said decree of Octo, 10, 1927, copy of which is hereto attached as Exhibit B, John Alexander was in actual possession of and was the owner of said four acre parcel of land ^{that} after said decree he remained in open, notorious and continuous possession thereof, without knowledge or notice of said decree, claiming to own the same under the aforesaid deed to Margaret Francisco, as her heir at law, until he conveyed and delivered possession of said four acre parcel to complainants,

and complainants aver that since the conveyance of John Alexander to them in 1941, and during the pendency of said ejectment suit, they have been and still are in actual possession of said four acre parcel of said Section 38.

PRAYER FOR PROCESS

To the end, therefore, that Equity be done in the premises, complainants pray that Old Spanish Fort Development Company, a corporation, The Merchants National Bank, a National Banking Association, individually and as Trustee, George E. Fuller and Patricia B. Fuller, be made parties respondent to this their bill of complaint, and that process in accordance with the course and practice of this Honorable Court be issued to and served upon them.

PRAYER FOR RELIEF

Complainants pray that pending a final hearing of this cause, that this Honorable Court enter an order staying execution on the judgment in favor of The Merchants National Bank of Mobile, as Trustee, for recovery of the aforesaid four acre parcel of land. And Complainants further pray that upon final hearing of this cause that this Honorable Court be pleased to consider the allegations of the bill of complaint in said suit by Old Spanish Fort Development Company to quiet its title to said four acre parcel of said Section 38, and will consider the record of service and of publication of notice of the filing of said suit and will find and decree that title to the aforesaid four acre parcel of land stood on the records at the time of the filing of said bill of complaint in Margaret Francisco, her heirs, devisees or successors in title, that Old Spanish Fort Development Company knew at the time it filed said bill that the said four acre parcel of land was owned and claimed by Margaret Francisco, if living, or by her heirs or devisees if she was dead, that it did not allege in its bill as required by statute that Margaret Francisco or her heirs or devisees, claimed said parcel of land, that it did not make said Margaret Francisco or her heirs or

devisees a party or parties to said bill, did not cause process to be served on them or publish notice to them as required by statute, and that said decree of Octo, 10, 1927, had no effect to vest in Old Spanish Fort Development Company a title to said four acre parcel which it did not establish by legal evidence in the cause, and which it in fact did not have, and complainants further pray that on final hearing of this cause this Honorable Court be pleased to enter its decree quieting complainants' title to said four acre parcel against said decree of Octo, 10, 1927, and complainants pray for such other or further relief as they are entitled to receive the premises considered.

CAFFEY GALLALEE & CAFFEY, MOBILE, ALABAMA.

AND

THOMPSON & WHITE, BAY MINETTE, ALABAMA.

BY:


Solicitors for Complainant.

STATE OF ALABAMA
BALDWIN COUNTY

Before me C. LeNoir Thompson, Notary Public in and for said County in said State, personally appeared D. L. MORRIS, who being duly sworn, deposes and says: That the foregoing petition is true and correct to the best of his knowledge, information and belief.


D. L. Morris

Subscribed and sworn to before me this the 27 day of December, 1938.


Notary Public, Baldwin County, Alabama.

Exhibit "A"

State of Alabama,

County of Baldwin.

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-vs-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East in Baldwin County,
Alabama, and any and all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Respondents.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF THE
TWENTY-FIRST JUDICIAL CIRCUIT OF ALABAMA, WHICH INCLUDES THE
COUNTY OF BALDWIN IN SAID STATE:

Your orator, Old Spanish Fort Development Company, a
corporation, brings this its bill of complaint against Sections 38
and 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County,
Alabama, and against any and all persons, firms or corporations claim-
ing any title to, interest in or lien or encumbrance on said lands,
or any part thereof, and your orator respectfully shows unto the Court
and unto your Honor as follows:

1. That your orator is a corporation incorporated under
the laws of the State of Delaware, but authorized to do business in
the State of Alabama, and with its principal place of business in
Alabama designated as Mobile, Alabama.

2. That the land against which this proceeding is brought
is situated in Baldwin County, State of Alabama, and described as
follows:

Section 38, Township 4 South, Ranges 1 and 2 East, in
Baldwin County, Alabama, and known as the Alexis Truillet or
the Alexis Truillet Grant, and Section 39, Township 4 South,
Ranges 1 and 2 East, in Baldwin County, Alabama, and known as
the Lefroy Truillet and Idane Chastang Grant, or as the
Lefroy Truillet Grant; said Section 38 being the same land
patented to Alexis Truillet by a patent recorded in Deed
Book 37 N. S., page 136, of the Public Records of Baldwin
County, Alabama, and said Section 39 being the same property
granted by the Spanish Government to Lefroy Truillet and
Idane Chastang and confirmed by the Acts of Congress of the
United States of America.

3. That your orator is in the actual and peaceable posses-
sion of the lands above described and claims to own the same absolutely

and in fee simple, subject to two certain vendor's liens reserved by those certain instruments, one from Henry Moorer and wife to Agnes B. Lott, recorded in Deed Book 37 N. S. at page 503-4, and the other from Agnes B. Lott and husband to Hiram E. Maynard recorded in Deed Book 37 N. S. at page 551-3, of the Public Records of Baldwin County, Alabama; that no suit is pending to test its title to, interest in or its right to the possession of said lands; that it acquired the legal title to said lands from Hiram E. Maynard by a deed recorded in Deed Book 40 MS page 534 of the Public Records of Baldwin County, Alabama; that said Hiram E. Maynard acquired said property by and through the following conveyances; Deed from Agnes B. Lott and husband, W. O. Lott, to Hiram E. Maynard recorded in Deed Book 37 N.S., page 551-3; deed from Henry D. Moorer and wife to Agnes B. Lott recorded in Deed Book 37 N.S. page 503-4; deed from W. A. Sibley and wife and Belle E. Sibley, unmarried to Henry D. Moorer recorded in Deed Book 37 N.S. at page 502-3; deed from Augustus W. Sibley, a widower, to W. A. Sibley and Belle E. Sibley recorded in Deed Book 30 N.S. at page 390; deed from Cyrus Sibley to Augustus W. Sibley recorded in Deed Book H, page 506; that Cyrus Sibley acquired said property by and through the conveyance, patents and confirmations of title hereinafter set out:

Grant from the Spanish Government to Lefroy Trouillet and Idane Chastang, recorded in Record 2, page 63-66, translated record of the public records of Mobile County, Alabama, and confirmation of said grant by the Acts of Congress of the United States of America;

Incomplete grant by the Spanish Government to Alexis Trouillet as shown by American State Papers, Volume 3, page 397, and confirmation of said grant by an Act of Congress of May 8th, 1822, and patent issued on said confirmation and recorded in the public records of Baldwin County, Alabama, in Deed Book 37 N. S. at page 136;

Deed from Antoine Trouillet, David Roberson and Emeline L. Roberson, his wife, to Jonathan Johns, recorded in Deed Book E. pages 337-8;

Deed from Ethelbert Brantley, guardian for Eliza J. Johns and Chloe E. Johns, minor heirs of Jonathan Johns, deceased, to Cyrus Sibley, recorded in Deed Book F, pages 351-2;

Deed from Ransom W. Matthews and Elizabeth Amanda Matthews, his wife, to Cyrus Sibley, recorded in Deed Book F, pages 332-3;

Deed from Antoine Trouillet, David Robinson and Emeline Lloyd Robinson, his wife, to Cyrus Sibley, recorded in Deed Book No. 21 N. S., pages 646-7;

Deed from Simon Chestang, Saustin Chestang, Etunne Sertonis Raymond and Claire Chestang, wife, Gertrude Gazon, formerly Gertrude Chestang, heirs of Sidonne Chestang to Augusto Savisson, recorded in Book E, pages 127-8;

Auguste Laviseon to James Clough, recorded in Deed Book E, pages 287-8;

Certificate of Survey of John James, U. S., Deputy Surveyor, and accompanying plat, recorded in Deed Book E, page 248;

Deed from Franklin C. Beard to George E. Griffith, recorded in Deed Book E, pages 249-50;

Deed from Ethelbert Brantley and Chloe Brantley to Cyrus Sibley, recorded in Deed Book G, page 59.

All references in this bill to recorded instruments refer to the public records in the Probate Office of Baldwin County, Alabama.

That while said Augustus W. Sibley was the owner and in possession of said tracts of land above described he, the said Augustus W. Sibley, and his wife, Ada A. Sibley, attempted to convey, by a deed dated May 18th, 1874, and recorded in Deed Book K, pages 487-8, to Margaret Francisco property described as follows:

"That certain tract, piece or parcel of land situate in said county and state and described as follows, to-wit:- Commencing at the water's edge on the north boundary line of the Alexis Trouillet tract and running thence east 12.64 chains; thence south 3.16 chains; thence west to the water's edge; thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort and containing about 4 acres and being a part of the Alexis Trouillet Tract lying in township four

south of range one and two east in said state and county."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated October 8th, 1879, and recorded in Deed Book L, pages 308-9, attempted to convey to Joseph Salva property described as follows:

"Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south or range two east."

That the said August W. Sibley and Ada A. Sibley, his wife, by warranty deed dated January 10th, 1879, recorded in Deed Book K, pages 261-2, attempted to convey to Charles Wilson property described as follows:

The following described tract or lot of land:- "Commence at an entwined poplar and black gum on the south side of Bayou Minette Bay, at a point bearing south 58½ deg. East from a point of march on the south side and at the mouth of said Bay, running thence South 52 deg. E. 9.48 chains to a post, thence North 38 deg. E. 6.32 chains to a post, thence north 52 deg. W. 9.48 chains to a poplar on the south bank of Bayou Minette Bay containing 6 acres and being a portion of the Lefroy Trouillette Tract in Township four south and ranges one and two east."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated June 4th, 1879, and recorded in Deed Book Q, pages 516-7, attempted to convey to Thomas Domingo property described as follows:

"Commencing at a point 12½--100 chains north 2 deg. 30' west from the southeast corner of a lot of 5 acres described in a survey made at the instance of A. W. Sibley on the 28 day of May, 1879, and conveyed to Jos. Barnard and others; running thence south 87 deg. 30' East 9.48 chains to a post, 3½ chains 2 deg. 30' from the southeast corner of a lot of land surveyed for Jos. Barnard, thence north 2 deg. and 30' east on the east line of Barnard's lot, containing 3 acres and lying in township four south of range two east and being a portion of the Lefroy Trouillette Claim in Baldwin County, Alabama."

That the said A. W. Sibley, a widower, by quitclaim deed dated August 30th, 1912, and recorded in Deed Book 19 N. S., page 395, conveyed to Guy Edward Loxley property described as follows:

"All that real property in Baldwin County, Alabama, described as follows: Start at the mouth of Spanish Fort Branch, being the southwest corner of the Lefray Trouillette

Grant, and run north 1.69 for a beginning corner from thence run north 52 degrees East 8 chains to a stake in the bluff north side of Spanish Fort thence north 45 degrees west 12 chains to the bank of Bay Minette, Creek thence down the east margin of said creek to the place of beginning, containing 4 acres, more or less and being fractional part of Lefray Trouillette grant in township four south of range two and one east."

That the said A. W. Sibley also, by quitclaim deed dated June 3rd, 1914, and recorded in Deed Book 21 N. S., page 610, conveyed to the said Guy Edward Loxley property described as follows:

"In Baldwin County, Alabama, described as follows, to-wit:-Start at the mouth of Spanish Fort branch, run north along the margin of Bay Minette Creek 1.69 chains for a beginning corner, thence north 52 deg. E. 8 chains to a stake at the bluff north side Spanish Fort; thence north 45 deg. West 5.12 chains to the Bank of Bay Minette Creek, thence down the east margin of said Creek to the place of beginning, containing 4 acres, more or less and being a fractional part of the Lefroy Trouellette Grant, section thirty-nine, all in township four south of range two east."

And your orator avers that both of said deeds last mentioned were intended to cover the same lands and that the latter deed was given to correct the description in the former deed; that by deed from Agnes B. Lott and husband to Hiram E. Maynard, recorded in Deed Record 37 N. S., page 395, and by deed from Hiram E. Maynard to your orator, recorded in Deed Record 40 N. S., page 535, your orator has acquired the legal title to said property which was originally deeded by the said Augustus W. Sibley to Guy Edward Loxley by the two conveyances to the said Guy Edward Loxley herein referred to.

Your orator avers that the description in the said deed from the said Augustus W. Sibley to Joseph Salva and the description in the said deed from Augustus W. Sibley to Thomas Domingo and the description in the said deed from Augustus W. Sibley to Charles Wilson are each and all void for uncertainty, and that, while it was the purpose of the said Augustus W. Sibley to convey to the respective grantees in said deeds certain tracts of land situated in either one or the other of the said grants above described as Sections 38 and 39, yet, because of said descriptions being so indefinite as to render it impossible to locate the lands intended to be described therein, each and all of said conveyances were not effective as deeds, and that the

title to the area attempted to be conveyed thereby has passed to your orator by reason of the deeds hereinabove referred to; that your orator has made diligent inquiry to ascertain who was in possession of and who claimed to own each and all of the said respective pieces of land, and that in such effort to so ascertain such possession and ownership your orator has caused the tax records in Baldwin County, Alabama, to be examined, and that it has caused diligent inquiry to be made from persons residing in the community where said lands are situated and that it has caused its agents to go over said lands and examine the same to see who, if anyone, was in possession of any part thereof, and after all of such inquiry and investigation on its part as aforesaid it is unable to ascertain that any person other than one William Mastin, alias William Merchant, who resides in Mobile County, claims any right, title or interest in and to either of said tracts or parcels of land above described; that your orator is informed and believes, and upon such information and belief avers, that the said William Mastin, alias William Merchant, is in possession of one of said tracts of land last above described but, on account of the indefinite descriptions in said deeds as aforesaid, your orator is not able to say with certainty which of said pieces or parcels of land the said Mastin claims or is in possession of; and that no other person is in possession of any of said tracts or parcels, nor, so far as orator knows or can ascertain, does any other person claim the same or any part thereof, or any interest therein. While your orator contends that each and all of the said conveyances last above set out are void for uncertainty in description, yet if any person, firm or corporation claims to own either of said pieces or parcels of land your orator here calls upon said person, firm or corporation to come into Court and set forth and specify his claim, right, title or interest in and to said parcel of land and by proper evidence introduced show to the Court the true and correct location of the tract or tracts which he or they claim to own or possess.

4. That the title to so much of the above described lands as lie in Township 4 South, Range 2 East, stands on the records of Baldwin County, Alabama, in the name of your orator, and that the title to so much of the above described lands as lie in Township 4 South,

Range 1 East, stands upon the records of Baldwin County, Alabama, in the name of Cyrus Sibley; that said Sections 38 and 39 are what are commonly known as Spanish Grants and the township line between Townships 1 East and 2 East, if projected across said grants, would leave a small portion of each of said grants in Township 4 South, Range 1 East, a true plat of said property showing its relation to said township line if projected being hereto attached, marked Exhibit "A" and prayed to be taken and considered as a part of this bill of complaint.

The said deed from Cyrus Sibley to Augustus W. Sibley, a true copy of which is hereto attached and marked Exhibit, "B" conveyed the following lands:

"All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the Academy."

But your orator avers that the true intent and purpose of the deed from Cyrus Sibley to Augustus W. Sibley, above referred to, was to convey all of Section 38 and all of Section 39, above described.

5. That on and after July 27th, 1865, the date on which Cyrus Sibley executed his deed to Augustus W. Sibley, above referred to, the said Augustus W. Sibley immediately went into possession of, and since that date, up to the date of his deed to W. A. Sibley and Belle E. Sibley, above referred to, remained in possession of and claimed to own all of Sections 38 and 39, Township 4 South, Ranges 1 and 2 East; except said tracts or parcels sold by the said Augustus W. Sibley by the several deeds above referred to; that on and after January 13th, 1921, W. A. Sibley and Belle E. Sibley went into possession of all of said Sections 38 and 39 and claimed to own the same up to the time that they deeded the same to Henry D. Moorcr by deed hereinabove referred to; that your orator

and those under whom it claims have regularly assessed said lands for taxation and have paid the taxes thereon since July 27th, 1865, and including the ten years next preceding the filing of this bill, and that no other person has paid taxes on said lands, or any part thereof, or any interest therein, nor has any other person had any possession of any part of said lands, during any part of the said period of the ten years next preceding the filing of this bill; and that so far as your orator knows no one claims said lands, or any interest therein, other than your orator, except Wesley R. Sibley who resides at Creola, Mobile County, Alabama and Clarence E. Sibley, who resides at Mobile, Mobile County, Alabama; that your orator is informed, and on such information and belief alleges, that said persons claim some right, title or interest in said lands through inheritance from Cyrus Sibley, but your orator avers that said persons have in fact no valid title or claim in and to said lands or any part thereof.

6. That your orator brings this its bill of complaint against the land above described and against any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, and to establish the right or title of your orator to such lands and to clear up all doubts or disputes concerning the same.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your orator prays that the lands hereinabove described, and any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be made parties defendant to this bill of complaint, and that the usual and proper process of this Honorable Court be issued and served as required by law, to the end that all persons, firms and corporations who claim said lands, or any interest therein or encumbrances thereon, may be required to appear, demur, plead to or answer this bill of complaint ~~within~~ within the time prescribed by law and under the rules of this Honorable Court.

Orator prays that any and all persons, firms and corporations

claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be required to set forth and specify such claim, right, title, interest, lien or encumbrance, and how and by what instrument the same is derived or created; and that upon the final hearing of this cause it will be ordered, adjudged and decreed by the Court that your orators at the time of the filing of this bill of complaint had the legal title to the above described lands and that no other person, firm or corporation has any right, title or interest therein or thereto, or to any part thereof, or any lien or encumbrance thereon, and that all doubts and disputes concerning said title may be cleared up and your orator's title to said lands fully and completely quieted. And your orator prays for such other, further, different and general relief as in equity and good conscience it may be entitled to receive in the premises, and your orator will ever pray, etc.

Old Spanish Fort Development Co., a Corporation,

BY /s/ Carter Smith

Secy.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

FOOT NOTE:

All persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the lands described in this bill or any part thereof and all persons desiring to intervene hereunder, are required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, answer under oath being hereby expressly waived.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

State of Alabama,
Mobile County,

Before me, Chas L. Rehm, a Notary Public, in and for said County in said State this day personally appeared Carter Smith as Secretary of Old Spanish Fort Development Company, Complainant, by whom the foregoing bill of complaint is signed and who being first duly sworn by me, deposes and says on oath that the facts alleged in said bill of complaint are true and correct and that all matters alleged in said bill, as on

information and belief, he verily believes to be true.

/s/ Carter Smith.

Sworn to and subscribed before
me this 18th day of May, 1927.

/s/ Chas. L. Rehn.
Notary Public, Mobile County, Alabama.

COPY

KNOW ALL MEN BY THESE PRESENTS, That I, Cyrus Sibley, of the County of Baldwin, State of Alabama, in consideration of the love and affection I have and bear towards my son Augustus W. Sibley, and for the purpose of making a partial division of my property among my children, do hereby give, grant, convey and confirm unto the said Augustus W. all the following lands in Baldwin County in said State, to-wit:-

All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Draws and square on which is the Academy.

TO HAVE AND TO HOLD unto him, the said Augustus W. Sibley, and to his heirs and assigns FOREVER.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 27th day of July, 1865.

/s/ CYRUS SIBLEY.

ATTEST:
JAMES BOND,
D. C. ANDERSON.

STATE OF ALABAMA,)

BALDWIN COUNTY.)

I, William Brooks, a Justice of the Peace for said County do hereby certify that Cyrus Sibley, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 27th., day of July, 1865.

/s/ WILLIAM BROOKS,
Justice of the Peace.

Received for record July 31st, 1865.
Recorded: August 3rd., 1865.
C. W. Wilkins,
Judge of Probate.

EXHIBIT "B"

COPY

KNOW ALL MEN BY THESE PRESENTS, That I, Cyrus
Shiley, of the County of Baldwin, State of Alabama, in con-
sideration of the love and affection I have and bear towards
my son Augustus W. Shiley, and for the purpose of making a
partial division of my property among my children, do hereby
give, grant, convey and confirm unto the said Augustus W. Shiley
the following lands in Baldwin County in said State, to-wit:-
All my lands and improvements situate in
Township Four South, Range Two and Three
East, also eighty acres on east side of
Alabama River above cut-off purchased by
me from Wm. H. Sims, also square number
thirteen in the village of Montrose of
said County according to the map of said
village on record, lying between Mr. Brown
and square on which is the locality.
TO HAVE AND TO HOLD unto him, the said Augustus W.
Shiley, and to his heirs and assigns forever.
IN WITNESS WHEREOF I have hereunto set my hand and
seal this 27th day of July, 1935.

1/s/ Cyrus Shiley

WITNESSES:
JAMES HARRIS,
D. C. HARRISON.

STATE OF ALABAMA,
BALDWIN COUNTY,)

I, William Brooks, a Justice of the Peace in and for said County do hereby certify that Cyrus Shiley is
is signed to the foregoing conveyance and who is known to me,
acknowledged before me on this day that being informed the
contents of the conveyance, he executed the same voluntarily
on the day the same were made.
Given under my hand this 27th day of July, 1935.
1/s/ William Brooks,
Justice of the Peace.

FILED
AUG 1 1935
CLERK, REGISTER

DEC 31 1935

Received for record July 27th, 1935.
Recorded August 2nd, 1935.
C. W. Williams,
Judge of Probate.

C
O
P
Y

Exhibit "B"

State of Alabama,

County of Baldwin

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-vs.-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East, in Baldwin County,
Alabama, and any and all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Respondents.

F I N A L D E C R E E .

This cause coming on to be heard is submitted for a final decree on the original bill of complaint filed in this cause on the 19th day of May, 1927, and the exhibits thereto; the order of the Judge of this Court dated May 19th, 1927, directing that publication in said cause be made in The Baldwin Times; the notice of publication signed by the Register of the Court on the 19th day of May, 1927, showing the pendency of said bill of complaint; proof of service of copy of said notice on Clarence E. Sibley, Wesley L. Sibley and William Mastin named in said bill of complaint; a copy of said notice duly recorded in the Probate Office of Baldwin County, Alabama, on May 20th, 1927, and proof of the due record of such notice; proof of the publication of said notice once a week for four consecutive weeks in The Baldwin Times, a newspaper published in Baldwin County, Alabama, being the County where the lands described in such bill lie; and the evidence offered by the Complainant in said cause as shown by the Note of Testimony herein, and thereupon the Court ascertains and decrees that this cause is at issue.

Upon consideration of said cause the Court ascertains that the Complainant, Old Spanish Fort Development Company, a corporation, was, at the time it filed its bill in this cause, and on the date of this decree is in the actual and peaceable possession of all of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin

County, Alabama, known as the Lefroy Truillet and Idane Chastang Grant or as the Lefroy Truillet Grant, except a certain three acre tract along the North boundary line of said Section 39 described as follows:

Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south of range two east;

that the Complainant and those under whom it claims as shown by the several deeds introduced in evidence and noted, have paid taxes on said Sections 38 and 39 for the period of ten years and longer, and that no other person has paid taxes thereon during any part of said period; that no other suit is pending to test Complainant's title to, interest in or its right to the possession of such lands; and that Complainant now holds and owns the complete equitable and legal title to all of said Sections 38 and 39, Township 4 South, Ranges 1 and 2 East, except the three acre tract above described.

It further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated January 10th, 1879, and recorded in Deed Book "K", at pages 261-2 of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley attempted to convey a certain six acre tract described in said deed to Charles Wilson, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

And it further appearing to the Court that the description contained in that certain deed from Augustus W. Sibley and Ada A. Sibley, his wife, dated June 4th, 1879, and recorded in Deed Book "Q", pages 516-7, of the public records in the Probate Office of Baldwin County, Alabama, whereby the said Augustus W. Sibley

3.

attempted to convey a certain three-acre tract described in said deed to Thomas Domingo, is void for uncertainty in description and that said tract and the location thereof cannot be located or ascertained, it is ordered that said deed be declared void for uncertainty in description, and it is decreed that the title to said area has passed to the Complainant by virtue of its deed introduced in evidence in this cause.

It is now, therefore, hereby considered, adjudged and decreed by the Court that the Complainant, Old Spanish Fort Development Company, is the true and lawful owner, in fee simple, of the following property described in said bill of complaint:

All of Section 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Alexis Truilett or the Alexis Trouillet Grant, and all of Section 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County, Alabama, and known as the Lefroy Truillet and Idane Chastang Grant, and sometimes as the Lefroy Truillet Grant, except a certain three-acre tract on the North boundary thereof described as follows: Commencing at a point at a variation of 6 deg. E. bears South 85 $\frac{1}{2}$ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22 $\frac{1}{2}$ deg. W. 4 $\frac{1}{2}$ chains to a Cedar with an X and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in Township Four South of Range Two East, and in the possession of and claimed by William Mastin;

And that the title thereto is in the Complainant, Old Spanish Fort Development Company; that the Complainant have judgment as prayed for in its bill of complaint against said land and against any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, and that the claim or claims of any and all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof, are hereby adjudged and decreed to be invalid, groundless and of no effect, and that Complainant's title to said lands is hereby quieted against all persons, firms or corporations claiming any title to, interest in or lien or encumbrance on said lands, or any part thereof.

It is further ordered, adjudged and decreed that the Register of this Court shall, within thirty days from the rendition of this decree, prepare and file a certified copy thereof in the Office of

the Judge of Probate of Baldwin County, Alabama, for record, and tax the expense thereof as a part of the costs in this cause, and it is further ordered and directed that the Judge of Probate shall record such copy in the same book and in the same manner in which deeds are recorded, and index the same in the name of Alexis Trouillet, Idane Chastang, Lefroy Truillet and Cyrus Sibley in the Direct Index, and in the name of Old Spanish Fort Development Company in the Reverse Index.

It is further ordered, adjudged and decreed that the title herein established in the Complainant shall inure to the benefit of all persons who derive title to said lands, or any interest therein, from or through the Complainant, Old Spanish Fort Development Company.

It is further ordered, adjudged and decreed that this decree shall in no wise affect the said vendor's liens reserved by those certain instruments referred to in the bill of complaint, Complainant's title being quieted subject to the rights of the holders of said vendor's liens and the debts secured thereby.

It is further ordered, adjudged and decreed that the Complainant be taxed with all costs incurred in this cause, for which let execution issue.

Done in term time this the 10th day of October, 1927.

/s/ John D. Leigh

Judge of the Twenty-first Judicial Circuit
of the State of Alabama.

FILED

DEC 31 1928

RECEIVED
JAN 1 1929
CLERK

the Judge of Probate of Alabama County, Alabama, for record, and the
the expense thereof as a part of the costs in this cause, and it is
further ordered and directed that the Judge of Probate shall record
each copy in the same book and in the same manner in which deeds are
recorded, and take the same in the name of Albert T. Smith, Jr., and
deposited, before the Judge and Clerk in the same office, and
in the name of Old Spanish Fort Development Company in the name
index.

It is further ordered, adjusted and decreed that the title
herein established in the Complaint shall inure to the benefit of
all persons who derive title to said lands, or any interest therein,
from or through the Complaint, Old Spanish Fort Development Company.
It is further ordered, adjusted and decreed that this
decree shall in no wise affect the said vendor's lien reserved by
those certain instruments referred to in the bill of complaint, con-
sistent with the being placed subject to the rights of the holders
of said vendor's lien and the debt secured thereby.
It is further ordered, adjusted and decreed that the Com-
plaint be taxed with all costs incurred in this cause, for which let
execution issue.
Done in term time this 10th day of October, 1958.

Wm. D. Smith
Judge of the Twenty-Ninth Judicial Circuit
of the State of Alabama

FILED
DEC 31 1958
Wm. J. Dyer, Clerk
REGISTER

J. D. MORRIS and D. L. MORRIS,)
Complainants,)
VS.)
OLD SPANISH FORT DEVELOPMENT)
COMPANY, a corporation, ET AL.,)
Respondents.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

APPEAL

Now come the respondents, The Merchants National Bank of Mobile, a National Banking Association; The Merchants National Bank of Mobile, as Trustee; George E. Fuller and Patrice B. Fuller, each separately and severally, and appeal to the Supreme Court of Alabama from the decree rendered in this cause on, to-wit, April 21, 1959, overruling respondents' demurrer to the Bill of Complaint in this cause.

Dated this 19th day of May, 1959.

THE MERCHANTS NATIONAL BANK OF MOBILE,
a National Banking Association;
THE MERCHANTS NATIONAL BANK OF MOBILE,
as Trustee;
GEORGE E. FULLER and PATRICE B. FULLER

By

MCCORVEY, TURNER, JOHNSTONE, ADAMS AND MAY

By

Attorneys for said respondents

SECURITY FOR COSTS

I hereby acknowledge myself as security for the costs of this appeal.

Dated this 19th day of May, 1959.

Taken and approved on this
the 19 day of May, 1959.

Register

Clerk of the Circuit Court of
Baldwin County, Alabama.

APPEAL

J. D. MORRIS and D. L. MORRIS,

Complainants,

VS.

OLD SPANISH FORT DEVELOPMENT COM-
PANY, a corporation, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

*Filed 5-20-59
Ainsworth
Reg.*

J. D. MORRIS and
D. L. MORRIS

COMPLAINANTS

VS

OLD SPANISH FORT DEVELOPMENT
COMPANY, a corporation, and
its successors or assigns, viz:
Merchants National Bank of
Mobile, a banking corporation,
individually and as Trustee and
George E. Fuller and Patricia B.
Fuller

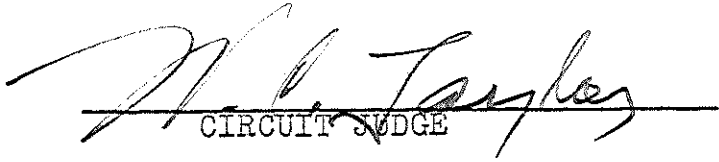
RESPONDENTS

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA

) CASE NO. _____
)

This matter having come before me on this the
16 day of January, 1959, on motion for an order staying
execution of the judgment in the case The Merchants National
Bank of Mobile, A National Banking Association, as Trustee,
George E. Fuller and Patrice B. Fuller, Plaintiffs, vs
James Morris and Leon Morris, Defendant, Civil Cause No. 974,
Baldwin County Circuit Court, and cause being shown by the
sworn complaint in said matter, it is hereby ordered that
execution upon the judgment in ejectment in favor of the
plaintiffs in said cause No. 974 and all proceedings for the
enforcement thereof, be, and they are hereby stayed during
the progress of the present cause.

Dated this 16 day of January, 1959.


CIRCUIT JUDGE

J. D. MORRIS and D. L. MORRIS,)	
)	
Complainants,)	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
OLD SPANISH FORT DEVELOPMENT)	
COMPANY, a corporation, ET AL.,	)	IN EQUITY NO. 4469
)	
Respondents.)	

CITATION OF APPEAL

TO J. D. MORRIS AND D. L. MORRIS; AND TO CAFFEY, GALLALEE AND CAFFEY, AND C. LeNOIR THOMPSON, ATTORNEYS FOR THE SAID J. D. MORRIS AND D. L. MORRIS:

WHEREAS, The Merchants National Bank of Mobile, a National Banking Association, The Merchants National Bank of Mobile, as Trustee, George E. Fuller and Patrice B. Fuller, each separately and severally, did on this date pray for and obtain an appeal to the Supreme Court of the State of Alabama from the decree rendered in the above stated cause by the Circuit Court of Baldwin County, Alabama, in Equity (W. C. Taylor, Special Judge), dated April 21, 1959, overruling respondents' demurrers to the Bill of Complaint, and have filed security for the cost of said appeal:

NOW, THEREFORE, you are hereby cited to appear in the Supreme Court of Alabama and defend the said appeal, if you think proper so to do.

WITNESS my hand this 19th day of May, 1959.


 Register

Please serve copy on
 C. LeNoir Thompson, Esquire
 Bay Minette, Alabama

4469
CITATION OF APPEAL

Received 21 day of May 1959
and on 21 day of May 1959
Served a copy of the within Citation
on C. L. Thompson Atty
by service on _____

J. D. MORRIS and D. L. MORRIS,
Complainants,
VS.

OLD SPANISH FORT DEVELOPMENT COM-
PANY, a corporation, ET AL.,

Respondents.

TAYLOR WILKINS, Sheriff
By W. A. Tolbert D. S.
Omi

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

J. D. MORRIS and)	
D. L. MORRIS,)	
)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
)	
OLD SPANISH FORT DEVELOPMENT	)	IN EQUITY
COMPANY, a corporation, ET AL.,	)	NO. 4469
)	
Respondents.)	

DEMURRER OF MERCHANTS NATIONAL BANK

Now comes the Merchants National Bank, a National Banking Association, by its attorneys, and demurs to the Bill of Complaint filed in this cause and as grounds of such demurrer assigns, separately and severally, the following:

1. There is no equity in the Bill of Complaint.
2. No facts are alleged on which any relief can be granted against this respondent.
3. No facts are alleged to show that this respondent, in its individual capacity, has any interest in this suit.
4. No facts are alleged to show that this respondent, in its individual capacity, is a necessary party to this suit.
5. No facts are alleged to show that this respondent, in its individual capacity, is a proper party to this suit.

J. B. Blashaw

McCORVEY, TURNER, JOHNSTONE, ADAMS AND MAY

By Ben H. Turner

(B)
Attorneys for respondent, Merchants National Bank, a National Banking Association.

Filed
Mar. 31, 1959
Alice J. Huck
Register

of 469
DEMURRER OF MERCHANTS NATIONAL
BANK, a National Banking Asso-
ciation.

J. D. MORRIS and D. L. MORRIS,

Complainants,

VS.

OLD SPANISH FORT DEVELOPMENT COM-
PANY, a corporation, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

FILED

MAR 31 1959

ALICE J. DUCK, CLERK
REGISTER

CAFFEY, GALLALEE & CAFFEY

ATTORNEYS AT LAW

715-719 FIRST NATIONAL BANK BUILDING

MOBILE 3, ALABAMA

WILLIAM G. CAFFEY
JACK C. GALLALEE
WILLIAM G. CAFFEY, JR.
ROBERT S. EDINGTON

January 16, 1959

REGISTERED MAIL

Mr. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama

Dear LeNoir:

We have today obtained an order staying execution of the judgment in ejectment in the case of Merchants National Bank of Mobile and others against James Morris and others, Civil Cause No. 974. We are herewith enclosing the original and a signed copy of this order. We think it should be specifically directed to the attention of the Clerk so that he may not overlook it and issue execution in this case.

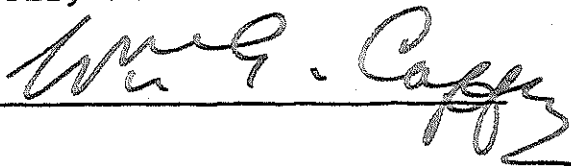
In addition to original and copy of order staying execution, we are returning herewith the original bill with the exhibits attached thereto. The Judge feels, and so do we, that this complaint should remain on file in the Baldwin County Circuit Court until a demurrer or some other pleading which requires the Court's attention is filed, at which time the complaint, together with the demurrer or other pleading, will have to be forwarded to the Judge here for action by him.

The only other suggestion at this time is to see that service is had on the Respondents in this case as soon as practicable so that the Respondents will have to file a demurrer or take other action in this matter.

Yours very truly,

CAFFEY, GALLALEE & CAFFEY

By



WGC:og

Enc.

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

SUPREME COURT OF ALABAMA

OCTOBER TERM 1961-62

1 Div. 840

The Merchants National Bank of Mobile et al.,

v.

J. D. Morris et al.

Appeal from Baldwin Circuit Court
In Equity

LIVINGSTON, CHIEF JUSTICE.

The controversy now before this Court is over four acres of more or less "wild" land, in Sec. 38, Township 4 South, Range 1 East, in Baldwin County, Alabama. This property has been the subject matter of litigation on at least four previous occasions.

In 1927, the Circuit Court of Baldwin County, Alabama, in Equity, made and entered a decree quieting title to the land

2.

in question in Old Spanish Fort Development Company, a Corporation. There was no appeal from that decree. The Merchants National Bank of Mobile et al. are the successors in title to Old Spanish Fort Development Company.

In 1949, in the case of Merchants National Bank of Mobile et al. v. Morris, et al., an ejectment suit, there was a jury verdict, and judgment rendered thereon, for the defendants. This judgment was reversed by this Court on appeal on the grounds that defendants in that suit were permitted to attack collaterally the 1927 decree. Merchants Nat. Bank of Mobile et al. v. Morris et al., 252 Ala. 566, 42 So. 2d 240.

In October 1952, a writ of mandamus was awarded by this Court to vacate an order transferring the cause to the jury docket after parties had consented to a trial without a jury. Ex parte Merchants Nat. Bank of Mobile et al., 257 Ala. 663, 60 So. 2d 684. After the writ was granted, the case was tried by the Court without a jury and judgment for the plaintiffs in the trial court was appealed. On appeal, this judgment for the plaintiffs was affirmed, on May 22, 1958. James Morris et al. v. The Merchants Nat. Bank of Mobile et al., 267 Ala. 542, 103 So. 2d 310.

On December 31, 1958, J. D. Morris and D. L. Morris, the defendants in the ejectment suit, filed in the Circuit Court of Baldwin County, Alabama, in Equity, a bill of complaint against the Merchants National Bank of Mobile et al., which eventuated in the appeal now presently before the Court. The separate demurrers of respondents named in that bill were overruled and

3.

the respondents appealed. The bill itself, and briefs on both sides of the question, are confusing as to the exact issues involved. The appellees on this appeal prepared the bill of complaint and their version of the nature and intent of the bill, as stated in briefs, is:

"The appeal in this case is from a decree overruling a demurrer to a bill of complaint seeking to determine the validity and effect of a decree [the 1927] in a proceeding purporting to be under and in accordance with the so-called statute for quieting title in rem. The bill in the in rem proceeding sought to quiet title to all of Sec. 38, Township 4 South, Ranges 1 and 2 East, in Baldwin County. * * * It is essentially a bill to remove a cloud created by a decree never appealed, and to quiet title, not a bill of review.* * * The relief sought in the present bill * * * involved a direct attack on an equity decree purporting to quiet title * * *."

It is manifest that the bill in this case is not a bill of review or a bill in the nature of a bill of review.

The appellees contend that the bill was not designed to set aside a decree for fraud in its concoction but is designed for the purpose of setting aside the 1927 decree for the lack of jurisdiction of John L. Alexander (predecessor in title to J. D. Morris and D. L. Morris) in the in rem suit, and for the lack of service of process on him. We note here that appellees, J. D. Morris and D. L. Morris, obtained a deed from John L. Alexander in 1941.

Apt demurrers raised the questions of lack of equity in the bill, the three and ten-year statute of limitations, the rule of prescription and laches.

The ejectment suit disposed of the question of title as between the parties, as we shall demonstrate. We, of course, judicially know the contents of the records of this Court in this particular litigation.

It is true that the case reported in 252 Ala. 566 was reversed because of the giving of Charge 6, together with a part of the oral charge of the court to the effect that the 1927 decree could be impeached collaterally. In the same judgment of reversal, it was pointed out that the Old Spanish Fort Development Company introduced three recorded deeds which gave the Old Spanish Fort Development Company color of title. Two of these deeds were recorded in October, 1925, and the other one was recorded in April, 1926.

On the second trial of the ejectment suit, reported in 267 Ala. 542, two of these deeds were admitted in evidence without objection, and the other deed was admitted over the objection of defendants in the ejectment suit. Thus, the Old Spanish Fort Development Company had color of title, beginning in 1925 or 1926. So that the admission of the bill of complaint in the chancery suit and the decree of 1927 were merely cumulative evidence. The judgment rendered on the second trial of the ejectment suit was appealed. On that appeal, this Court said:

"Appellants also insist that they have shown title by adverse possession. In the opinion in the first case we observed -- 'Moreover, the evidence

in the instant case does not show that anyone was in adverse possession of the land when the bill was filed and decree rendered.¹ In the second trial, the appellants adduced evidence that their immediate predecessor in title, John Alexander, was in possession of the four acres in December, 1927, shortly after the date of the decree in the equity case and he and those holding under him had been in possession down to the date of the instant suit which was filed June 21, 1946. This produced a direct conflict in the testimony as to which party was in possession and the trial court resolved that conflict in favor of appellees. We cannot say the trial court was plainly wrong because there was considerable evidence to support his finding.

"Moreover, there are other reasons why John Alexander could not claim adverse possession after the decree in 1927. The statute, Tit. 7, § 828, Code 1940, requires color of title and assessment of the land for taxes for ten years. Alexander had no color of title made after the 1927 decree and never listed the land for taxation. He could not claim title by descent cast as provided by the statute because he could point to no predecessor in title who was in possession of the property after the 1927 decree, or to a devise from a predecessor in title after that time.

"Alexander's deed to appellants was executed and recorded in 1941. It could be no more than color of title. Since this suit was filed in 1946, appellants' possession was less than five years even if it be conceded that they were in the exclusive possession of the property. This does not meet the statutory requirements for adverse possession. Tit. 7, § 828."

In McCormick v. McCormick, 221 Ala. 606, 130 So. 226, it was said:

"Ejectment is the well-known and favored action for the trial of title to land.

"The plea of 'not guilty' puts the title in issue and, broadly speaking, any fact tending to defeat plaintiff's title or sustain that of defendant is within the issue. Code, § 7456; Bynum v. Gold, 106 Ala. 427, 17 So. 667; Torrey v. Forbes, 94 Ala. 135, 10 So. 320.

"True, of course, merely equitable titles and defenses are not cognizable in a court of law, and are not litigated in an action of ejectment.

"Appellant relies upon this principle to avoid the effect of the judgment in ejectment.

"Does it apply here?

"Certainly the title of respondent's grantor, her title in fee under the homestead law, was

within the issue in the ejectment suit. So, also, the issue of mental incapacity to execute such deed, a matter going to the existence of a deed in fact.

"This leaves the question of undue influence as invalidating the deed. Undue influence as between persons standing in confidential relations is involved. We need not consider whether, in the first instance, a bill to cancel the deed upon this ground would lie while the grantee was still in possession thereunder.

"The inquiry is: Was this question within the issues and litigable in the action of ejectment?

"We must answer in the affirmative."

Title was tried in the ejectment suit and it was held that the successor in title to the Old Spanish Port Development Company had acquired title since the 1927 decree was recorded, and this is so regardless of that decree. The introduction of the deeds, as color of title, and the showing of the payment of taxes for more than ten years after the acquisition of color of title, whether that color of title be regarded as coming from the deeds or the 1927 decree of the chancery court was sufficient to establish title in appellants. It was implicit in the judgment rendered in the ejectment suit that the defendants in the ejectment suit (complainants in the bill presently before this court) had lost whatever rights or title they might have had since the deeds were recorded. The setting aside of the decree sought by the bill now before this Court would avail the complainants nothing. Equity will not

8.

do a vain thing. If the appellants have no title to the land in question, having lost it since the 1927 equity decree, and regardless of that decree, there is no cloud to remove from the title of complainants, for the simple reason that they have no title, and the cancellation of the equity decree of 1927 would put them in no better position in proving title, because they have none.

The bill of complaint is totally lacking in equity, and the demurrers should have been sustained. In our opinion, the bill cannot be amended so as to give it equity.

REVERSED AND RENDERED.

Lawson, Stakely and Merrill, JJ., concur.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 840,

The Merchants National Bank of Mobile, et al., Appellant

vs.

J. D. Morris, et al, Appellee,

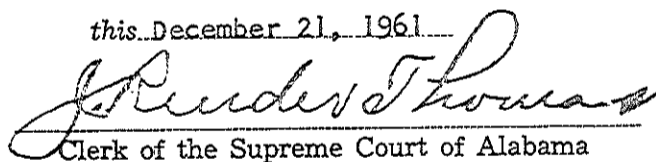
From Baldwin Circuit Court.
In Equity

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

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

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

this December 21, 1961


Clerk of the Supreme Court of Alabama

J. D. MORRIS and D. L. MORRIS,)
Complainants,)
VS.)
OLD SPANISH FORT DEVELOPMENT)
COMPANY, ET AL.,)
Respondents.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

DECREE GRANTING MOTION TO STRIKE

This cause coming on to be heard on this date is submitted on the motion of Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patricia B. Fuller (the same person as Patrice B. Fuller) to strike complainants' amended bill of complaint which was filed in this cause on March 12, 1962; from all of which it appears that this cause was fully and finally adjudicated by the Supreme Court of Alabama on December 21, 1961, at which time the complainants' original bill of complaint was dismissed, and that this court now has no authority or jurisdiction to permit the amendment of a bill of complaint which has been previously dismissed by the Supreme Court, upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The motion of the said respondents to strike the said amended bill of complaint shall be and it is hereby granted, and the said amended bill of complaint which was filed in this cause on March 12, 1962, is hereby stricken.

2. The costs incurred in this proceeding on and since March 12, 1962, are hereby taxed against the complainants, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 4th day of May, 1962.

W. C. Taylor
Judge

FILED

MAY 4 1962

ALICE J. DUCK, CLERK
REGISTER

State of Alabama,

County of Baldwin.

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

Old Spanish Fort Development Company,
a corporation,

Complainant,

-vs-

Sections 38 and 39, Township 4 South,
Ranges 1 and 2 East in Baldwin County,
Alabama, and any and all persons, firms
or corporations claiming any title to,
interest in, or lien or encumbrance on
said lands, or any part thereof.

Respondents.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF THE
TWENTY-FIRST JUDICIAL CIRCUIT OF ALABAMA, WHICH INCLUDES THE
COUNTY OF BALDWIN IN SAID STATE:

Your orator, Old Spanish Fort Development Company, a
corporation, brings this its bill of complaint against Sections 38
and 39, Township 4 South, Ranges 1 and 2 East, in Baldwin County,
Alabama, and against any and all persons, firms or corporations claim-
ing any title to, interest in or lien or encumbrance on said lands,
or any part thereof, and your orator respectfully shows unto the Court
and unto your Honor as follows:

1. That your orator is a corporation incorporated under
the laws of the State of Delaware, but authorized to do business in
the State of Alabama, and with its principal place of business in
Alabama designated as Mobile, Alabama.

2. That the land against which this proceeding is brought
is situated in Baldwin County, State of Alabama, and described as
follows:

Section 38, Township 4 South, Ranges 1 and 2 East, in
Baldwin County, Alabama, and known as the Alexis Truillet or
the Alexis Trouillet Grant, and Section 39, Township 4 South,
Ranges 1 and 2 East, in Baldwin County, Alabama, and known as
the Lefroy Truillet and Idane Chastang Grant, or as the
Lefroy Truillet Grant; said Section 38 being the same land
patented to Alexis Truillet by a patent recorded in Deed
Book 37 N. S., page 136, of the Public Records of Baldwin
County, Alabama, and said Section 39 being the same property
granted by the Spanish Government to Lefroy Truillet and
Idane Chastang and confirmed by the Acts of Congress of the
United States of America.

3. That your orator is in the actual and peaceable posses-
sion of the lands above described and claims to own the same absolutely

and in fee simple, subject to two certain vendor's liens reserved by those certain instruments, one from Henry Moorer and wife to Agnes B. Lott, recorded in Deed Book 37 N. S. at page 503-4, and the other from Agnes B. Lott and husband to Hiram H. Maynard recorded in Deed Book 37 N. S. at page 551-3, of the Public Records of Baldwin County, Alabama; that no suit is pending to test its title to, interest in or its right to the possession of said lands; that it acquired the legal title to said lands from Hiram H. Maynard by a deed recorded in Deed Book 40 NS page 534 of the Public Records of Baldwin County, Alabama; that said Hiram H. Maynard acquired said property by and through the following conveyances; Deed from Agnes B. Lott and husband, W. O. Lott, to Hiram H. Maynard recorded in Deed Book 37 N.S., page 551-3; deed from Henry D. Moorer and wife to Agnes B. Lott recorded in Deed Book 37 N.S. page 503-4; deed from W. A. Sibley and wife and Belle E. Sibley, unmarried to Henry D. Moorer recorded in Deed Book 37 N.S. at page 502-3; deed from Augustus W. Sibley, a widower, to W. A. Sibley and Belle E. Sibley recorded in Deed Book 30 N.S. at page 390; deed from Cyrus Sibley to Augustus W. Sibley recorded in Deed Book H, page 506; that Cyrus Sibley acquired said property by and through the conveyance, patents and confirmations of title hereinafter set out:

Grant from the Spanish Government to Lefroy Trouillet and Idane Chastang, recorded in Record 2, page 63-66, translated record of the public records of Mobile County, Alabama, and confirmation of said grant by the Acts of Congress of the United States of America;

Incomplete grant by the Spanish Government to Alexis Trouillet as shown by American State Papers, Volume 3, page 397, and confirmation of said grant by an Act of Congress of May 8th, 1822, and patent issued on said confirmation and recorded in the public records of Baldwin County, Alabama, in Deed Book 37 N. S. at page 136;

Deed from Antoine Trouillet, David Roberson and Emeline L. Roberson, his wife, to Jonathan Johns, recorded in Deed Book E, pages 337-8;

Deed from Ethelbert Brantley, guardian for Eliza J. Johns and Chloe E. Johns, minor heirs of Jonathan Johns, deceased, to Cyrus Sibley, recorded in Deed Book F, pages 351-2;

Deed from Ransom W. Matthews and Elizabeth Amanda Matthews, his wife, to Cyrus Sibley, recorded in Deed Book F, pages 332-3;

Deed from Antoine Trouillet, David Robinson and Emeline Lloyd Robinson, his wife, to Cyrus Sibley, recorded in Deed Book No. 21 N. S., pages 646-7;

Deed from Simon Chestang, Saustin Chestang, Etunne Sertonis Raymond and Claire Chestang, wife, Gertrude Guzon, formerly Gertrude Chestang, heirs of Sidonne Chestang to Augusto Savisson, recorded in Book E, pages 127-8;

Auguste Lavisson to James Clough, recorded in Deed Book E, pages 287-8;

Certificate of Survey of John James, U. S., Deputy Surveyor, and accompanying plat, recorded in Deed Book E, page 248;

Deed from Franklin C. Heard to George E. Griffith, recorded in Deed Book E, pages 249-50;

Deed from Ethelbert Brantley and Chloe Brantley to Cyrus Sibley, recorded in Deed Book G, page 59.

All references in this bill to recorded instruments refer to the public records in the Probate Office of Baldwin County, Alabama.

That while said Augustus W. Sibley was the owner and in possession of said tracts of land above described he, the said Augustus W. Sibley, and his wife, Ada A. Sibley, attempted to convey, by a deed dated May 18th, 1874, and recorded in Deed Book K, pages 487-8, to Margaret Francisco property described as follows:

"That certain tract, piece or parcel of land situate in said county and state and described as follows, to-wit:- Commencing at the water's edge on the north boundary line of the Alexis Trouillet tract and running thence east 12.64 chains; thence south 3.16 chains; thence west to the water's edge; thence with the meanderings of the same to the place of beginning, lying within the limits of Spanish Fort and containing about 4 acres and being a part of the Alexis Trouillet Tract lying in township four

south of range one and two east in said state and county."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated October 8th, 1879, and recorded in Deed Book L, pages 308-9, attempted to convey to Joseph Salva property described as follows:

"Commencing at a point at a variation of 6 deg. E. bears South 85½ deg. east from the most northerly point of the woods on Cedar Point on the south side and the mouth of Bayou Minette Bay, North 22½ deg. W. 4½ chains to a Cedar with an x and 2 chops, below running south 52 deg. E. 9.48 chains, thence south 38 deg. W. 3.16 chains, thence north 52 deg. W. 9.48 chains to the Bay, thence with the meanderings of the Bay to the place of beginning, containing 3 acres being portion of the Lefroy Trouillette claim in township four south or range two east."

That the said August W. Sibley and Ada A. Sibley, his wife, by warranty deed dated January 10th, 1879, recorded in Deed Book K, pages 261-2, attempted to convey to Charles Wilson property described as follows:

The following described tract or lot of land:- "Commence at an entwined poplar and black gum on the south side of Bayou Minette Bay, at a point bearing south 58½ deg. East from a point of march on the south side and at the mouth of said Bay, running thence South 52 deg. E. 9.48 chains to a post, thence North 38 deg. E. 6.32 chains to a post, thence north 52 deg. W. 9.48 chains to a poplar on the south bank of Bayou Minette Bay containing 6 acres and being a portion of the Lefroy Trouillette Tract in Township four south and ranges one and two east."

That the said Augustus W. Sibley and wife, Ada A. Sibley, by warranty deed dated June 4th, 1879, and recorded in Deed Book Q, pages 516-7, attempted to convey to Thomas Domingo property described as follows:

"Commencing at a point 12½--100 chains north 2 deg. 30' west from the southeast corner of a lot of 5 acres described in a survey made at the instance of A. W. Sibley on the 28 day of May, 1879, and conveyed to Jos. Barnard and others; running thence south 87 deg. 30' East 9.48 chains to a post, 3½ chains 2 deg. 30' from the southeast corner of a lot of land surveyed for Jos. Barnard, thence north 2 deg. and 30' east on the east line of Barnard's lot, containing 3 acres and lying in township four south of range two east and being a portion of the Lefroy Trouillette claim in Baldwin County, Alabama."

That the said A. W. Sibley, a widower, by quitclaim deed dated August 30th, 1912, and recorded in Deed Book 19 N. S., page 395, conveyed to Guy Edward Loxley property described as follows:

"All that real property in Baldwin County, Alabama, described as follows: Start at the mouth of Spanish Fort Branch, being the southwest corner of the Lefray Trouillette

Grant, and run north 1.69 for a beginning corner from thence run north 52 degrees East 8 chains to a stake in the bluff north side of Spanish Fort thence north 45 degrees west 12 chains to the bank of Bay Minette, Creek thence down the east margin of said creek to the place of beginning, containing 4 acres, more or less and being fractional part of Lefray Trouillette grant in township four south of range two and one east."

That the said A. W. Sibley also, by quitclaim deed dated June 3rd, 1914, and recorded in Deed Book 21 N. S., page 610, conveyed to the said Guy Edward Loxley property described as follows:

"In Baldwin County, Alabama, described as follows, to-wit:-Start at the mouth of Spanish Fort branch, run north along the margin of Bay Minette Creek 1.69 chains for a beginning corner, thence north 52 deg. E. 8 chains to a stake at the bluff north side Spanish Fort; thence north 45 deg. West 5.12 chains to the Bank of Bay Minette Creek, thence down the east margin of said Creek to the place of beginning, containing 4 acres, more or less and being a fractional part of the Lefroy Trouette Grant, section thirty-nine, all in township four south of range two east."

And your orator avers that both of said deeds last mentioned were intended to cover the same lands and that the latter deed was given to correct the description in the former deed; that by deed from Agnes B. Lott and husband to Hiram H. Maynard, recorded in Deed Record 37 N. S., page 395, and by deed from Hiram H. Maynard to your orator, recorded in Deed Record 40 N. S., page 535, your orator has acquired the legal title to said property which was originally deeded by the said Augustus W. Sibley to Guy Edward Loxley by the two conveyances to the said Guy Edward Loxley herein referred to.

Your orator avers that the description in the said deed from the said Augustus W. Sibley to Joseph Salva and the description in the said deed from Augustus W. Sibley to Thomas Domingo and the description in the said deed from Augustus W. Sibley to Charles Wilson are each and all void for uncertainty, and that, while it was the purpose of the said Augustus W. Sibley to convey to the respective grantees in said deeds certain tracts of land situated in either one or the other of the said grants above described as Sections 38 and 39, yet, because of said descriptions being so indefinite as to render it impossible to locate the lands intended to be described therein, each and all of said conveyances were not effective as deeds, and that the

title to the area attempted to be conveyed thereby has passed to your orator by reason of the deeds hereinabove referred to; that your orator has made diligent inquiry to ascertain who was in possession of and who claimed to own each and all of the said respective pieces of land, and that in such effort to so ascertain such possession and ownership your orator has caused the tax records in Baldwin County, Alabama, to be examined, and that it has caused diligent inquiry to be made from persons residing in the community where said lands are situated and that it has caused its agents to go over said lands and examine the same to see who, if anyone, was in possession of any part thereof, and after all of such inquiry and investigation on its part as aforesaid it is unable to ascertain that any person other than one William Mastin, alias William Merchant, who resides in Mobile County, claims any right, title or interest in and to either of said tracts or parcels of land above described; that your orator is informed and believes, and upon such information and belief avers, that the said William Mastin, alias William Merchant, is in possession of one of said tracts of land last above described but, on account of the indefinite descriptions in said deeds as aforesaid, your orator is not able to say with certainty which of said pieces or parcels of land the said Mastin claims or is in possession of; and that no other person is in possession of any of said tracts or parcels, nor, so far as orator knows or can ascertain, does any other person claim the same or any part thereof, or any interest therein. While your orator contends that each and all of the said conveyances last above set out are void for uncertainty in description, yet if any person, firm or corporation claims to own either of said pieces or parcels of land your orator here calls upon said person, firm or corporation to come into Court and set forth and specify his claim, right, title or interest in and to said parcel of land and by proper evidence introduced show to the Court the true and correct location of the tract or tracts which he or they claim to own or possess.

4. That the title to so much of the above described lands as lie in Township 4 South, Range 2 East, stands on the records of Baldwin County, Alabama, in the name of your orator, and that the title to so much of the above described lands as lie in Township 4 South,

Range 1 East, stands upon the records of Baldwin County, Alabama, in the name of Cyrus Sibley; that said Sections 38 and 39 are what are commonly known as Spanish Grants and the township line between Townships 1 East and 2 East, if projected across said grants, would leave a small portion of each of said grants in Township 4 South, Range 1 East, a true plat of said property showing its relation to said township line if projected being hereto attached, marked Exhibit "A" and prayed to be taken and considered as a part of this bill of complaint.

The said deed from Cyrus Sibley to Augustus W. Sibley, a true copy of which is hereto attached and marked Exhibit, "B" conveyed the following lands:

"All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the Academy."

But your orator avers that the true intent and purpose of the deed from Cyrus Sibley to Augustus W. Sibley, above referred to, was to convey all of Section 38 and all of Section 39, above described.

5. That on and after July 27th, 1865, the date on which Cyrus Sibley executed his deed to Augustus W. Sibley, above referred to, the said Augustus W. Sibley immediately went into possession of, and since that date, up to the date of his deed to W. A. Sibley and Belle E. Sibley, above referred to, remained in possession of and claimed to own all of Sections 38 and 39, Township 4 South, Ranges 1 and 2 East; except said tracts or parcels sold by the said Augustus W. Sibley by the several deeds above referred to; that on and after January 13th, 1921, W. A. Sibley and Belle E. Sibley went into possession of all of said Sections 38 and 39 and claimed to own the same up to the time that they deeded the same to Henry D. Moorner by deed hereinabove referred to; that your orator

and those under whom it claims have regularly assessed said lands for taxation and have paid the taxes thereon since July 27th, 1865, and including the ten years next preceding the filing of this bill, and that no other person has paid taxes on said lands, or any part thereof, or any interest therein, nor has any other person had any possession of any part of said lands, during any part of the said period of the ten years next preceding the filing of this bill; and that so far as your orator knows no one claims said lands, or any interest therein, other than your orator, except Wesley R. Sibley who resides at Creola, Mobile County, Alabama and Clarence E. Sibley, who resides at Mobile, Mobile County, Alabama; that your orator is informed, and on such information and belief alleges, that said persons claim some right, title or interest in said lands through inheritance from Cyrus Sibley, but your orator avers that said persons have in fact no valid title or claim in and to said lands or any part thereof.

6. That your orator brings this its bill of complaint against the land above described and against any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, and to establish the right or title of your orator to such lands and to clear up all doubts or disputes concerning the same.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your orator prays that the lands hereinabove described, and any and all persons, firms and corporations claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be made parties defendant to this bill of complaint, and that the usual and proper process of this Honorable Court be issued and served as required by law, to the end that all persons, firms and corporations who claim said lands, or any interest therein or encumbrances thereon, may be required to appear, demur, plead to or answer this bill of complaint ~~within~~ within the time prescribed by law and under the rules of this Honorable Court.

Orator prays that any and all persons, firms and corporations

claiming any title to, interest in, lien or encumbrance on said lands, or any part thereof, be required to set forth and specify such claim, right, title, interest, lien or encumbrance, and how and by what instrument the same is derived or created; and that upon the final hearing of this cause it will be ordered, adjudged and decreed by the Court that your orators at the time of the filing of this bill of complaint had the legal title to the above described lands and that no other person, firm or corporation has any right, title or interest therein or thereto, or to any part thereof, or any lien or encumbrance thereon, and that all doubts and disputes concerning said title may be cleared up and your orator's title to said lands fully and completely quieted. And your orator prays for such other, further, different and general relief as in equity and good conscience it may be entitled to receive in the premises, and your orator will ever pray, etc.

Old Spanish Fort Development Co., a Corporation,

BY /s/ Carter Smith
Secy.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

FOOT NOTE:

All persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the lands described in this bill or any part thereof and all persons desiring to intervene hereunder, are required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, answer under oath being hereby expressly waived.

/s/ Stevens, McCorvey, McLeod, Goode, Turner.
Solicitors for Complainant.

State of Alabama,
Mobile County,

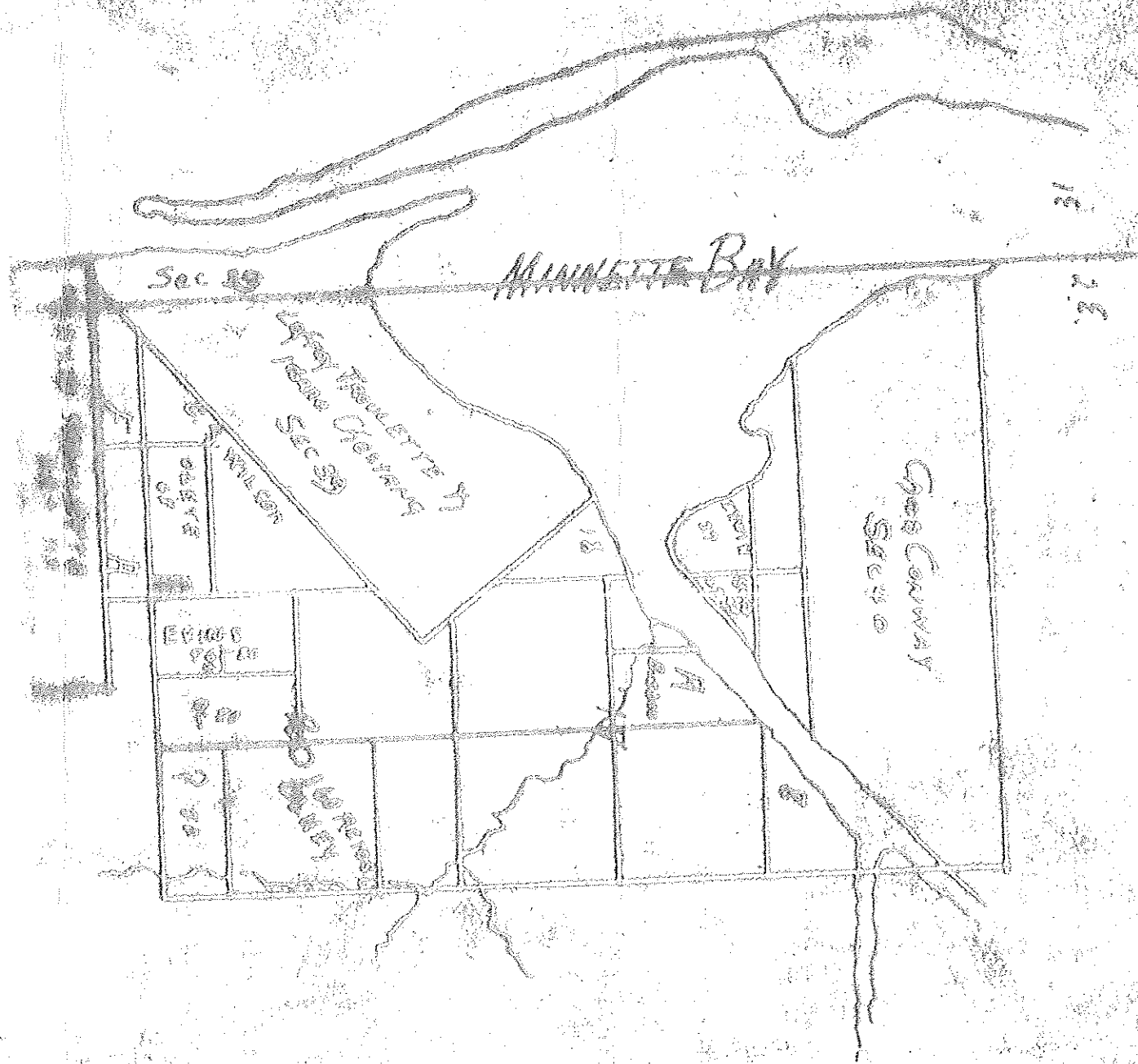
Before me, Chas L. Rehm, a Notary Public, in and for said County in said State this day personally appeared Carter Smith as Secretary of Old Spanish Fort Development Company, Complainant, by whom the foregoing bill of complaint is signed and who being first duly sworn by me, deposes and says on oath that the facts alleged in said bill of complaint are true and correct and that all matters alleged in said bill, as on

information and belief, he verily believes to be true.

/s/ Carter Smith.

Sworn to and subscribed before
me this 18th day of May, 1927.

/s/ Chas. L. Rehm.
Notary Public, Mobile County, Alabama.



COPY

KNOW ALL MEN BY THESE PRESENTS, That I, Cyrus Sibley, of the County of Baldwin, State of Alabama, in consideration of the love and affection I have and bear towards my son Augustus W. Sibley, and for the purpose of making a partial division of my property among my children, do hereby give, grant, convey and confirm unto the said Augustus W. all the following lands in Baldwin County in said State, to-wit:-

All my lands and improvements situate in Township Four South, Ranges Two and Three East, also eighty acres on east side of Alabama River above cut-off purchased by me from Uriah Blue, also Square Number Thirteen in the village of Montrose of said County according to the map of said village on record, lying between Mr. Drews and square on which is the Academy.

TO HAVE AND TO HOLD unto him, the said Augustus W. Sibley, and to his heirs and assigns FOREVER.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 27th day of July, 1865.

/s/ CYRUS SIBLEY.

ATTEST:
JAMES BOND,
D. C. ANDERSON.

STATE OF ALABAMA,)
BALDWIN COUNTY.)

FILED
DEC 31 1865
JAMES BOND, CLERK

I, William Brooks, a Justice of the Peace for said County do hereby certify that Cyrus Sibley, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 27th., day of July, 1865.

/s/ WILLIAM BROOKS,
Justice of the Peace.

Received for record July 31st, 1865.
Recorded: August 3rd., 1865.
C. W. Wilkins,
Judge of Probate.

EXHIBIT "B"

COPY

J. D. MORRIS and D. L. MORRIS,)
Complainants,)
VS.)
OLD SPANISH FORT DEVELOPMENT)
COMPANY, ET AL.,)
Respondents.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

MOTION TO STRIKE

Now come the respondents, The Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patricia B. Fuller, by their attorneys, and move to strike the amended bill of complaint filed in this cause on March 12, 1962, and as grounds of such motion assign, separately and severally, the following:

1. This cause was finally adjudicated by the Supreme Court of Alabama on, to-wit, December 21, 1961, and before the filing of the said amended bill of complaint, as will appear from the Supreme Court's order in this cause dated December 21, 1961, a copy of which is hereto attached and by reference made a part hereof as though fully incorporated herein.

2. This court had no jurisdiction of this cause on, to-wit, March 12, 1962, and had no authority to allow the complainants to file the said amended bill of complaint on the said date.

3. The amended bill of complaint is unnecessarily prolix.

4. The amended bill of complaint is irrelevant.

5. The amended bill of complaint is frivolous.

J. B. Blackburn
McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

By *Ben R. Turner*
Attorneys for the above named Respondents

FILED
APR 10 1962
ALICE J. DUCK, CLERK
REGISTER

DECEMBER 21, 1961

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT
THE SUPREME COURT OF ALABAMA
OCTOBER TERM 1961-62

1st Div. 840

The Merchants National Bank of Mobile, et al.

vs.

J. D. Morris, et al.

Baldwin Circuit Court, In Equity

Come the parties by attorneys, and the record and matters therein assigned for errors being submitted on briefs on the original transcript and supplement thereto and being duly examined and understood by the Court, it is considered that in the record and proceedings of the Circuit Court there is manifest error.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that the decrees of the Circuit Court overruling the demurrers of the respondents to the bill of complaint be and the same are hereby reversed and annulled, and this Court proceeding to render the decree that the Circuit Court should have rendered doth CONSIDER, ORDER, ADJUDGE AND DECREE as follows:

(1) That the demurrer of the respondent, The Merchants National Bank of Mobile, a national banking association, to the bill of complaint be and the same is hereby sustained.

(2) That the demurrers of the respondents, The Merchants National Bank of Mobile, a national banking association, as Trustee, George E. Fuller and Patricia B. Fuller, to the bill of complaint be and the same are hereby sustained.

The Court is of the opinion that the bill of complaint cannot be amended so as to give it equity.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the bill of complaint be and the same is hereby dismissed.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the costs of appeal of this Court and all of the costs of the Circuit Court be and the same are hereby taxed against the appellees, J. D. Morris and D. L. Morris, for which costs let execution issue.

I, J. Render Thomas, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument herewith set out as same appears of record in said Court. WITNESS my hand this 21 day of Dec, 1961.

(S) J. RENDER THOMAS
Clerk, Supreme Court of Alabama

J. D. MORRIS and D. L. MORRIS,)
Complainants,)
VS.)
OLD SPANISH FORT DEVELOPMENT)
COMPANY, a corporation, ET AL.,)
Respondents.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

ORDER EXTENDING TIME FOR FILING TRANSCRIPT

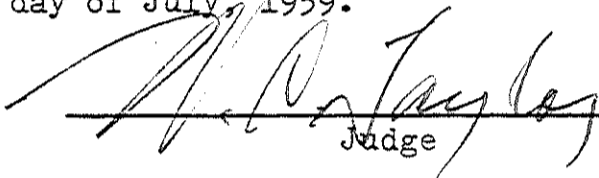
On motion of the appellants and for good cause shown, the time for filing the transcript in this cause with the Clerk of the Supreme Court of Alabama shall be and it is hereby extended until August 15, 1959.

Dated this 17 day of July, 1959.

FILED

AUG 6 1959

ALICE J. DUCK, Register


Judge

ORDER EXTENDING TIME FOR FILING
TRANSCRIPT

J. D. MORRIS and D. L. MORRIS,
Complainants,
VS.

OLD SPANISH FORT DEVELOPMENT
COMPANY, a corporation, ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4469

FILED

AUG 6 1959

ALICE J. DUCK, Register

J. D. MORRIS and
D. L. MORRIS,

Complainants

VS

OLD SPANISH FORT DEVELOPMENT
COMPANY, a corporation, et
al,

Respondents

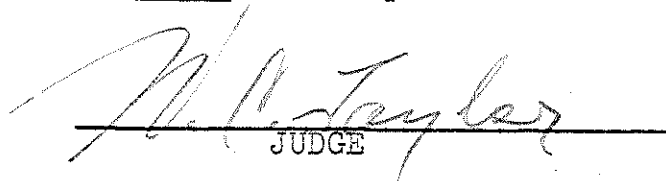
)) IN THE CIRCUIT COURT OF BALDWIN
))
)) COUNTY, ALABAMA
))

)) IN EQUITY NO. 4469
))
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))

The demurrer filed separately by Merchants National Bank of Mobile, a National Banking Association, as Trustee, George E. Fuller and Patricia B. Fuller to the bill of complaint in the above cause and the demurrer filed by Merchants National Bank, a National Banking Association, to said bill of complaint having been specially set for hearing on Monday, April 20, 1959, and the demurrer of each of said parties to said bill of complaint having been argued by the attorneys of the respective parties and having been taken under submission and considered by the Court, the Court is of the opinion that each of said demurrers to said bill of complaint should be overruled.

It is, accordingly, ORDERED, ADJUDGED and DECREED by the Court that the demurrer of Merchants National Bank of Mobile, a National Banking Association, as Trustee, the demurrer of George B. Fuller, and the demurrer of Patricia B. Fuller to said bill of complaint be and each of said demurrers is hereby overruled; and it is further ORDERED, ADJUDGED and DECREED by the Court that the demurrer of Merchants National Bank of Mobile, a National Banking Association, to said bill of complaint be and the same is hereby overruled.

DATED at Mobile this 21 day of April 1959.


JUDGE