

3718

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE SOUTHERN DIVISION OF THE SOUTHERN  
DISTRICT OF ALABAMA

GRANT MINNICH, )  
Complainant, )  
VS. ) CIVIL ACTION NO. \_\_\_\_\_  
NINA C. HOPPEs, )  
Respondent. )

TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN  
DIVISION OF THE SOUTHERN DISTRICT OF ALABAMA:

Your petitioner, Nina C. Hoppes, respectfully shows:

1. Petitioner is the defendant in the above entitled action.
2. The above entitled action was commenced in the Circuit Court of Baldwin County, Alabama, and is now pending in that court. Process was served on the petitioner on the 13th day of February, 1956. A copy of the plaintiff's complaint setting forth the claim for relief upon which the action is based was first received by the petitioner on the 13th day of February, 1956.
3. The above entitled action is a civil action for an order or decree annulling a conveyance from the plaintiff to the defendant, which said conveyance is dated January 10, 1946, and which is recorded in Deed Book 108 at pages 220-21, Baldwin County, Alabama Records, and the District Court of the United States for the Southern Division of the Southern District of Alabama has jurisdiction of the same by reason of the diversity of citizenship of the parties.
4. Plaintiff is a citizen of the State of Alabama and defendant is a citizen of the State of Ohio. The matter in controversy exceeds, exclusive of costs and disbursements, the value of Three Thousand Dollars (\$3,000.00). No change of citizenship of parties has occurred since the commencement of the action.
5. This petition is accompanied by a bond conditioned as required by law.

6. Copies of all process, pleadings and orders served upon petitioner are filed herewith.

WHEREFORE, your petitioner prays that this action be removed.

Dated this 5th day of March, 1956.

/s/ J. B. BLACKBURN

/s/ JAMES R. OWEN

Attorneys for petitioner.

2718

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

FILED  
MAR 7 1956  
CLERK

James R. Owen, of lawful age, being duly sworn upon his oath, says that he is one of the attorneys for petitioner herein; that he has prepared and read the above and foregoing petition for removal, and that the matters and things contained therein are true, as he verily believes.

/s/ JAMES R. OWEN

Subscribed and sworn to before me this 5th day of March, 1956.

/s/ William J. O'Connor

Notary Public, Baldwin County, Alabama  
Mobile

FILED

MAR 7 1956

ALICE J. DUCK, Clerk

GRANT MINNICH,  
Complainant,  
vs.  
NINA C. HOPPES,  
Respondent.

*P. H. Duck*  
Judge of Probate

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY No. 3718

NOTICE OF LIS PENDENS

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, Alabama, in Equity, do hereby certify that on the \_\_\_ day of February, 1956, Grant Minnich, as Complainant, filed in said Court a Bill of Complaint against Nina C. Hoppes and, in the alternative, against the unknown heirs at law and next of kin of J. D. Hoppes, Deceased, under the provisions of Title 20, Section 15, of the Code of Alabama of 1940, seeking to have annulled that certain deed dated January 10, 1946, from the said Grant Minnich to J. D. Hoppes and Nina C. Hoppes which is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 108 N. S., page 220.

NOTICE IS HEREBY GIVEN of the pendency of said proceeding and of the Bill of Complaint herein referred to. That said proceeding affects the following described real property situated in Baldwin County, Alabama, to-wit:

From the Southwest corner of Section (frac.) Five (5) in Township Seven (7) South, Range Three (3) East, thence run North Seven Hundred Twenty-six (726) feet, thence North 66 degrees 30 minutes West Nineteen and one-half (19½) feet for a point of beginning; thence run North One Hundred Thirty-two and one-half (132½) feet, thence East Four Hundred Twenty-two (422) feet, thence North Seventy-five (75) feet; thence North 84 degrees 15 minutes West to East bank of Fish River; thence down East bank of Fish River following its meanderings to a point North 66 degrees 30 minutes West from beginning point; thence South 66 degrees 30 minutes East to point of beginning;

and all persons, firms and corporations are hereby notified of the pendency of said proceeding.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Circuit Court of Baldwin County, Alabama, in Equity, on this the 14th day of February, 1956.

*Alice J. Duck*  
Alice J. Duck, Register.



BOOK 004 PAGE 253

STATE OF ALABAMA )  
BALDWIN COUNTY )

IN THE CIRCUIT COURT - IN EQUITY

TO NINA C. HOPPES, A NON-RESIDENT OF THE STATE OF ALABAMA, RESIDING AT 1218 NORTH LIMESTONE STREET, SPRINGFIELD, OHIO:

You are hereby required to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, In Equity, by Grant Minnich, as Complainant, against Nina C. Hoppes, as Respondent.

Witness my hand this 11<sup>th</sup> day of February, 1956.

*W. A. ...*  
Register.

GRANT MINNICH,  
Complainant,

vs.

NINA C. HOPPES,  
Respondent.

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

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

Comes the Complainant, Grant Minnich, by his solicitors, and respectfully represents and shows unto your Honor and unto this Honorable Court as follows:

FIRST:

That the Complainant is ninety (90) years of age and is a resident citizen of Baldwin County, Alabama, his more particular address being Route 1, Summerdale, Alabama; that the Respondent, Nina C. Hoppes, is over the age of twenty-one (21) years and is a non-resident of the State of Alabama, residing in the State of Ohio, her more particular address being 1218 North Limestone Street, Springfield, Ohio.

SECOND:

That the Complainant is the owner, subject only to the matters hereinafter alleged, and in the actual possession of the following described real property situated in Baldwin County, Alabama, to-wit:

BOOK 021 PAGE 103

From the Southwest corner of Section (frac.) Five (5), in Township Seven (7) South, Range Three (3) East, thence run North Seven Hundred Twenty-six (726) feet, thence North 66 degrees 30 minutes West Nineteen and one-half ( $19\frac{1}{2}$ ) feet for a point of beginning; thence run North One Hundred Thirty-two and one-half ( $132\frac{1}{2}$ ) feet, thence East Four Hundred Twenty-two (422) feet, thence North Seventy-five (75) feet; thence North 84 degrees 15 minutes West to East bank of Fish River; thence down East bank of Fish River following its meanderings to a point North 66 degrees 30 minutes West from beginning point; thence South 66 degrees 30 minutes East to point of beginning.

That he executed on January 10, 1946, a conveyance of the above described realty, of which the total or material part of the consideration was the agreement of the Grantees therein named to support the Complainant, the Grantor, during the remainder of his life. That there is attached to this Bill of Complaint and marked Exhibit "A" and by reference made a part hereof, a certified copy of said conveyance of the above described realty, in which conveyance the Grantees were the Respondent herein and J. D. Hoppes, who was then the husband of the Respondent. That since the execution of the above noted conveyance, the said J. D. Hoppes has departed this life, and the Complainant does not know the exact date of his death, but is informed and believes, and upon such information and belief alleges that the said J. D. Hoppes died during the month of February, 1953.

THIRD:

The Complainant further alleges that although a material part of the consideration for the above noted conveyance was the agreement of the Grantees to support the Complainant during his life, that they failed and refused to do so, and that they never have lived with him and cared for or supported him and neither did they ever pay any of the taxes due on the above described property, nor the insurance on the improvements located on the same nor make any effort to maintain or preserve said property. The Complainant further alleges that neither the Respondent nor the said J. D. Hoppes, during his lifetime, lived on said property with the Complainant nor did they live in Baldwin County, Alabama, but that they did spend their vacations in this County.

FOURTH:

That the Complainant has made a complete and thorough examination of the records on file in the Office of the Judge of Probate of Baldwin County, Alabama, and there are no bona fide purchasers for value, lienees and/or mortgagees without notice who would be affected by this proceeding.

FIFTH:

That although the conveyance of the above described realty noted above was executed by the Complainant and delivered to the Grantees therein named, for the consideration herein alleged, with the intention that the title to be conveyed and vested in the Respondent and the said J. D. Hoppes as joint tenants with the right of survivorship, so that upon the death of either of them that the title thereto would descend to the survivor of them, the Complainant has been advised that said conveyance is susceptible to a construction and that the title to be conveyed might be held to have vested in the Grantees therein named as tenants in common and not as joint tenants with the right of survivorship. That the Complainant is informed and believes, and upon such information and belief alleges that the said J. D. Hoppes, deceased, had no children and that his mother and father were both deceased on the date of his death, but the Complainant does not know, and can not ascertain after diligent inquiry, the names, ages and addresses of the heirs at law and next of kin of said J. D. Hoppes, except his wife, the Respondent herein.

SIXTH:

That the Complainant does hereby declare the deed hereinabove referred to and which is attached hereto and marked Exhibit "A" void and does hereby exercise the option vested in him under provisions of Title 20, Section 15, of the Code of Alabama of 1940, and institutes this equity proceeding to annul such conveyance and does hereby offer to do equity in the premises.

SEVENTH:

That there is also attached to this Bill of Complaint an affidavit of one of the solicitors for the Complainant as required by Equity Rule 2 (b), Alabama Equity Rules, Title 7, Code of Alabama of 1940, Appendix.

PRAYER FOR PROCESS

The premises considered, the Complainant respectfully prays that this Honorable Court will cause service of process upon the Respondent to be had by the Register by mailing to the Respondent by registered mail, postage prepaid, a copy of this Bill of Complaint together with a summons to answer the same within thirty days from the receipt thereof as provided by Equity Rule 2 (b), Alabama Equity Rules, Title 7, Code of Alabama of 1940, Appendix.

PRAYER FOR RELIEF

The premises considered, the Complainant further prays that upon a final hearing of this cause that this Honorable Court will enter an order or decree annulling the conveyance hereinabove referred to, a copy of which is attached to this Bill of Complaint and, in and by the terms of said decree, declare that neither the Respondent, Nina C. Hoppes, nor the unknown heirs at law and next of kin of J. D. Hoppes have any right, title, interest in, lien or encumbrance upon said property and will cause the Register of this Court to file a certified copy of said decree in the Office of the Judge of Probate of Baldwin County, Alabama, and to note on the margin of the record wherein said conveyance is recorded that the same has been annulled and cancelled as a cloud on the title of the Complainant. The Complainant further prays that if, upon consideration of the matters herein presented, this Court should construe the conveyance which is attached to this Bill of Complaint to have vested title in the Grantees therein named as tenants in common rather than as joint tenants with the right of survivorship, subject to the option of the Complainant to have the same annulled, that this Honorable Court will cause notice to be given and service of process to be had upon such heirs at law and next of kin of the said J. D. Hoppes, one of the Grantees therein named, as can be located and ascertained, and will cause notice to be published as required by law to the unknown heirs at law and next of kin of the said J. D. Hoppes before the final determination of this cause. The Complainant further prays for such other, further and different relief to which he may be entitled and which in the premises will be meet and proper.

CHASON & STONE

By: M. P. Stone  
Solicitors for Complainant.

BOOK 021 PAGE 109

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Lila S. Glover, a Notary Public in and for said County in said State, personally appeared Norborne C. Stone, who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That he is one of the solicitors of record in that certain proceeding filed in the Circuit Court of Baldwin County, Alabama, in Equity, wherein Grany Minnich is the Complainant and Nina C. Hoppes is the Respondent and that the said Nina C. Hoppes is a non-resident of the State of Alabama, residing at 1218 North Limestone Street in Springfield, Ohio.

Norborne C. Stone  
Norborne C. Stone

Sworn to and suscribed before me this 11<sup>th</sup> day of February, 1956.

Lila S. Glover  
Notary Public, Baldwin County,  
Alabama.

BOOK  
PAGE  
PART 110



EX 103 pg 220

THE STATE OF ALABAMA, )  
                                  )  
BALDWIN COUNTY.      )

BOOK 021 PAGE 11

KNOW ALL MEN BY THESE PRESENTS, That I, Grant Minnich, a widower, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, to me in hand paid by J. D. Hoppes and Nina C. Hoppes, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have GRANTED, BARGAINED and SOLD and by these presents do hereby GRANT, BARGAIN, SELL and CONVEY unto the said J. D. Hoppes and Nina C. Hoppes, their heirs and assigns, the following described real estate, situated in the County of Baldwin, State of Alabama, to wit:

From the Southwest corner of Section (frac.) Five (5), in Township Seven (7) South, Range Three (3) East, thence run North Seven Hundred Twenty-six (726) feet, thence North 66 degrees and 30 minutes West Nineteen and One-half (19½) feet for a point of beginning; thence run North One Hundred Thirty-two and One-half (132½) feet, thence East Four Hundred Twenty-two (422) feet, thence North Seventy-five (75) feet; thence North 84 degrees 15 minutes West to East bank of Fish River; thence down East Bank of Fish River following its meanderings to a point North 66 degrees 30 minutes West from beginning point; thence South 66 degrees 30 minutes East to point of beginning.....

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD, the aforegranted premises to the said J. D. Hoppes and Nina C. Hoppes, during their joint lives, and upon the death of either of them, then to the survivor of them in fee simple, and to the heirs and assigns of such survivor forever. And I do covenant with the said J. D. Hoppes and Nina C. Hoppes, their heirs and assigns, that I am lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances; that I have a good right to sell and convey the same to the said J. D. Hoppes and Nina C. Hoppes, their heirs and assigns, and that I will WARRANT AND DEFEND the premises to the said J. D. Hoppes and Nina C. Hoppes, their heirs and assigns forever, against the lawful claims and demands of all persons whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 10 day of January, 1946.

Grant Minnich (SEAL)

*This deed effective only after my death*  
*Grant Minnich*

13630

THE STATE OF ALABAMA, )  
                                  )  
DADEMAN COUNTY.         )

I, Forest A. Christian, a Notary Public in and for the County and State, do hereby certify that Grant Erlich, a widower, 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 said conveyance, he executed the same voluntarily on the day the same bears date.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this the 10 day of January, 1940.

My commission expires: 12/27/49

For 4/14/40 to 4/14/41  
Notary Public

STATE OF ALABAMA, DADEMAN COUNTY

dated Jan 7 1940 7 00

Recorded and I certify that \_\_\_\_\_  
and I certify that \_\_\_\_\_  
been paid \_\_\_\_\_  
Deed Tax \_\_\_\_\_

Mortgage Tax \_\_\_\_\_

W. A. Stewart  
Judge of Probate  
By W. A. Stewart

BOOK 021 PAGE 172

The State of Alabama }  
Baldwin County

PROBATE COURT

I, W. R. STUART, Judge of Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the \_\_\_\_\_ Deed from Grant Minnich to

\_\_\_\_\_ J. D. Hoppes and Nina C. Hoppes \_\_\_\_\_

as the same appears of record in my office in \_\_\_\_\_ Deed \_\_\_\_\_ Book No. \_\_\_\_\_ 108

Page \_\_\_\_\_ 220-1 \_\_\_\_\_.

Given under my hand and seal of office, this \_\_\_\_\_ 10th \_\_\_\_\_ day of \_\_\_\_\_ February \_\_\_\_\_, 19 \_\_\_\_\_ 56

\_\_\_\_\_ W. R. Stuart \_\_\_\_\_

Judge of Probate.

By: \_\_\_\_\_ L. A. Gowan, Chief Clerk \_\_\_\_\_