

1429

MARIE LIPSCOMB,
Complainant,

VS.

AGNES LOTT,
Respondent.

IN THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 1429.

This cause coming on to be heard is submitted on demurrer to the bill of complaint as last amended. Upon consideration thereof I am of the opinion that said demurrer is well taken

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED THAT said demurrer be, and the same is hereby sustained.

This the 5th day of July, 1947.

J. W. Stare
JUDGE

MARIE LIPSCOMB

Complainant

vs.

AGNES B. LOTT

Respondent

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 1429

Comes the respondent in the above styled cause and re-files her original demurrer and her demurrer to the bill of complaint as amended and demurs to the bill of complaint as last amended on the grounds heretofore assigned in said cause, separately and severally, and on the following additional separate and several grounds:

ELEVEN

For that the complaint as last amended states no facts which present any legal question to the court different from those heretofore presented, on which the court has ruled adversely to complainant.

TWELVE

For that paragraphs 5C and 5D of the bill of complaint as amended do not contain any allegations of fact which enable complainant to maintain this action and to obtain the relief sought.

THIRTEEN

For that there is no allegation in the bill of complaint as amended that Martha Pearl Weber Reeves, deceased, devised the land described in the bill of complaint to complainant.

FOURTEEN

For that the allegation that the complainant as devisee under the last will and testament of Martha Pearl Weber Reeves, deceased, is in possession of the property is but a conclusion of the pleader, and states no facts to support said conclusion.

FIFTEEN

For that the allegation that the complainant claims title to said property as devisee under the last will and testament of Martha Pearl Weber Reeves, deceased, is but the statement of a

conclusion of the pleader, and the bill of complaint should have attached to it a copy of said last will and testament in order that this court might determine, as a matter of law, whether or not said property was devised to the complainant.

SIXTEEN


For that it affirmatively appears from the allegations of the complaint that all necessary parties are not before the court in this cause as parties complainant or respondent.

SEVENTEEN

For that if the administration of the Estate of Martha Pearl Weber Reeves is still pending, as alleged, the Executor of said will, and not complainant, would have the right to redeem said property, if any such right exists.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By


Attorneys for Respondent

STATE OF ALABAMA,
BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETINGS:

WE COMMAND YOU that you summon AGNES B. LOTT to be and appear before the Judge of the Circuit Court of Baldwin County, Alabama, exercising Chancery Jurisdiction, within thirty days after the service of summons, and there to plead, answer or demur, without oath, to a bill of complaint lately exhibited by MARIE LIPSCOMB, against the said Agnes B. Lott, and further to do and perform what the said Judge shall order and direct in that behalf, and this the Respondent shall in no wise omit under penalty of the law. And we further command that you return this writ with your execution thereon to our said Court immediately upon the execution thereof.

Witness, R. S. Duck, Register of said Court, this the 16 day of October, 1945.


Register

MARIE LIPSCOMB,
COMPLAINANT,
VS.
AGNES B. LOTT,
RESPONDENT.

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

TO HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

Your Complainant, Marie Lipscomb, respectfully represents and shows unto your Honor and this Honorable Court as follows:

1.

That she is over twenty-one years of age and a bona fide resident of Baldwin County, Alabama; that the Respondent, Agnes B. Lott is over twenty-one years of age, and a resident of Mobile, Mobile County, Alabama;

2.

That Martha Pearl Weber Reeves, a resident of Baldwin County, Alabama, died on the 7th day of June 1927 leaving a last will and testament which has been duly probated in Baldwin County, Alabama; that the Complainant was named as one of the beneficiaries under said will; that she has never received the bequest left her by the said Martha Pearl Weber Reeves, in her last will and testament;

3.

That Martha Pearl Weber Reeves, at the time of her death, owned the following described land in Baldwin County, Alabama, to-wit:

That certain lot, or parcel of land beginning at the Southeast corner of lot No. 5, running West to the East boundary of lot # 8, 20.88 chains, thence South 10° East 2.68 chains to the Northwest corner of Lot # 7, thence South 76° East 15.60 chains, thence South 9 chains to Mobile Bay, thence following the meanders of Mobile Bay and Weeks Bay to the place of beginning, containing 24 acres, more or less, according to the plat and survey of N. L. Durant, September 5, 1899, and being Lot # 6, in Section 4, Township 8 South, Range 2 East;

4.

That your Complainant was twenty-one years of age on October 20, 1944;

5.

That the land herein described was on July 8, 1931, sold by the Tax Collector of Baldwin County, Alabama, in the name of Merchants National Bank, Executor, to the State of Alabama, for the taxes due for the year 1930; that the said land was on December 15, 1937, sold by the State Land Commissioner, of the State of Alabama, to E. H. Bailey, and that E. H. Bailey on September 26, 1941, sold it to the Respondent, Agnes B. Lott;

6.

That your Complainant, Marie Lipscomb, as one of the beneficiaries under the last will and testament of Martha Pearl Weber Reeves, deceased, has the right to redeem the property herein described, from the said tax sale, and from the Respondent;

7.

That your Complainant submits herself to the jurisdiction of this Court and agrees to comply with all orders and decrees thereof.

WHEREAS, the premises considered, your Complainant prays that your Honor will by proper process make the said Agnes B. Lott party Respondent to this bill of complaint, requiring her to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainant prays that this Honorable Court will upon a hearing hereof, grant to her the following separate and several relief;

- (a) That a decree be made and entered;
- (b) That she has the right to redeem the said property from the tax sale and sales as herein set out, upon the payment of the taxes, fees and costs as provided by law;
- (c) That a reference be had to determine the amount due by your Complainant to redeem said land;
- (d) That the Respondent be required upon the payment of the amount as fixed by the Court, to convey the said property to your Complainant, and upon her failure to do so, that the Register of the Court be authorized, empowered and directed to execute deed to the Complainant, conveying all right, title and interest of the Respondent in and to said land, upon the payment in the Court of the amount fixed by the Court;
- (e) That in the event your Complainant has prayed for the wrong relief, that a decree be made and entered, awarding to her such relief as she may be entitled under the allegations of this complaint;
- (f) That she be awarded such other, further, different or general relief as she may be in equity and good conscience entitled to receive, and as in duty bound she will ever pray.

BEEBE & HALL

By: 
Solicitors for the Complainant.

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MARIE LIPSCOMB,
 COMPLAINANT,
 VS. *nov.*
 AGNES B. LOTT, X 5 Sanders
 RESPONDENT.

SUMMONS AND COMPLAINT.

Received 19 day of October 1945
 and on 5th day of November 1945
 I served a copy of the within complaint
 on Agnes B. Sanders

BY W. H. HOLCOMB, Sheriff
W. H. Sanders

Jedus Oct 16 1945
W. H. Holcomb
Sheriff

FIVE

For that the right to redeem said property is now barred by the Statute of Limitations.

SIX

For that no action to redeem said lands was brought within the time allowed by law.

SEVEN

For that it appears from the Bill of Complaint that the Complainant had no interest in said land, either legal or equitable, which gives her the right to redeem said property.

M. Torrey James Rogers
Attorneys for Respondent.

MARIE LIPSCOMB,
Complainant,
vs.
AGNES B. LOTT,
Respondent.

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

No. 1429

TO HONORABLE R. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, IN EQUITY

COMES the Respondent in the above styled cause and refiles her Demurrer to the Bill of Complaint as amended, and demurs to the Bill of Complaint as amended on the grounds heretofore assigned in said cause, separately and severally, and on the additional separate and several grounds:

EIGHT

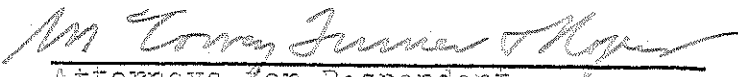
For that the complaint, as amended, does not sufficiently identify the "Statutes of Limitations of Three Years" which it is alleged bar all rights of the Respondent to the property in question.

NINE

For that the Statute of Limitations which is found in Section 295 of Title 51 of the Alabama Code of 1940 bars actions for the recovery of real estate, and cannot be invoked against the Respondent in this cause because this action is not one brought by the Respondent for the recovery of real estate.

TEN

For that the character of this cause, as amended, becomes, in effect, one in the nature of an action to quiet title against the Respondent, without containing the necessary allegations to enable Complainant to maintain such an action.


Attorneys for Respondent.

MARIE LIPSCOMB

COMPLAINANT

VS

AGNES B. LOT

RESPONDENT

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

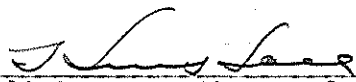
Now Comes the Complainant and the demurrers heretofore filed by the Respondent to the original bill of complaint having first sustained, amends her complaint by adding paragraph 5-A and 5-B:

5-A

That the Respondent, Agnes B. Lot, acquired title to the property herein described by conveyance from E. H. Bailey dated September 26, 1941; that the said E. H. Bailey held title by virtue of a tax sale and deed from the State of Alabama, dated December 15, 1937; that neither the said Agnes B. Lot nor the said E. H. Bailey now have nor have had possession of the said property.

5-B

That neither the Respondent, Agnes B. Lot, nor her predecessor in title who held under a tax sale have at any time taken actual possession of the said property, and that all rights of the Respondent, Agnes B. Lot, to said property are barred by the statutes of limitation of three years.


Solicitor for the Complainant

1429

MARIE LIPSCOMB

COMPLAINANT

VS

AGNES B. LOT

RESPONDENT

AMENDED BILL OF COMPLAINT

Filed Sept 5, 1944
R. H. [unclear]
Register

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS
ATTORNEYS AT LAW
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING
P. O. BOX 1070
MOBILE 6, ALABAMA

GESSNER T. McCORVEY
BEN D. TURNER
C. M. A. ROGERS
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
CHAUNCEY MOORE

September 22, 1947

Mrs. Alice J. Duck
Register
Bay Minette, Alabama

Dear Mrs. Duck:

We enclose herewith Demurrer to the Complaint
as Amended in Cause Number 1429, on your Equity Docket -
Lipscomb vs. Lott, which we will appreciate your filing.

Very truly yours,



RFA/cb

CC: Mr. Hubert M. Hall
Attorney at Law
Bay Minette, Alabama

with copy of summons.

MARIE LIPSCOMB

COMPLAINANT

VS

AGNES B. LOTT

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 1429

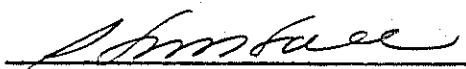
Now comes the Complainant, demurrers having been sustained to the Bill of Complaint as last amended, amends her complaint by adding paragraphs no. 5C and 5D, as follows:

5C.

That Martha Pearl Weber Reeves through whom the Complainant holds, was at the time of her death in the actual possession of the property involved in this suit; that the Complainant as devisee under the Last will and Testament of Martha Pearl Weber Reeves, deceased, is now and has been since the death of the said Martha Pearl Weber Reeves in possession of the property involved.

5D.

That the Complainant claims title to said property as devisee under the Last Will and Testament of Martha Pearl Weber Reeves deceased; that the administration on the estate of said Martha Pearl Weber Reeves, deceased, is still pending in the probate court of Baldwin County, Alabama; that the Complainant has never received the legacy left to her by the said Martha Pearl Weber Reeves in her last will and testament.


Solicitor for the Complainant

MARIE LIPSCOMB

COMPLAINANT

VS

AGNES B. LOTT

RESPONDENT

AMENDED BILL OF COMPLAINT

Filed

7-15-47

*Alvin J. Luck
Jury*

MARIE LIPSCOMB,
Complainant,
vs.
AGNES LOTT,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
No. 1429

This cause coming on to be heard in open court on demurrer to the bill of complaint as last amended on July 15, 1947, and upon consideration thereof the court being of the opinion that respondent's said demurrer is well taken,--

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that respondent's said demurrer to petitioner's bill of complaint as last amended on July 15, 1947, be and the same is hereby sustained.

This the 30th day of September, 1947.


Judge

MARIE LIPSCOMB,

Complainant,

VS.

AGNES B. LOTT,

Respondent.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

IN EQUITY.

This cause coming on to be heard is submitted on demurrer to the bill of complaint, and upon consideration thereof, I am of the opinion that, in the absence of allegations of collusive bad faith, the demurrer is well taken -

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the demurrer to the bill of complaint be sustained.

The Complainant is allowed thirty days from the filing of this decree to amend her bill of complaint if she so desires.

This 7th day of August, 1946.

F. W. Lare

JUDGE

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W. H. H. H. H.

Marie Lupcank
Agnes Latt

Secretarium

July Aug 8. 1946
R. H. H. H.

SECRETARIUM

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