

786

OSCAR JOHNSON,

Complainant,

-vs-

W. R. SIKES, J. B. SIKES,
W. R. SIKES, ALDINE HORN,
MYRTLE FUNDABURK and
FRANK SIKES,

Respondents.

IN THE CIRCUIT COURT-EQUITY SIDE.

STATE OF ALABAMA.

BALDWIN COUNTY.

Come the Respondents, by Norborne Stone and Frank B. Bricken, as their Solicitors of record, and demur to the Original Bill of Complaint in this cause filed, and to each paragraph thereof, separately and severally, and for grounds of demurrer assign the following:-

1. That said Bill contains no equity.

Frank B. Bricken
Norborn Stone
Solicitor for Respondents.

COPIES DESTROYED

RECORDED

45

INDEXED

RECORDED

Filed Jan 19th 1929.
T. W. Richardson
Register

RECORDED

[Faint handwritten notes and signatures]

The State of Alabama, } Circuit Court of Baldwin County, In Equity.
Baldwin County.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon W.R.Sikes, J.B.Sikes, W.R.Sikes,
Aldine Horn, Myrtle Fundaburk and Frank Sikes,

of Crenshaw, County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
Oscar Johnson,

against said W.R.Sikes, J.B.Sikes, W.R.Sikes, Aldine Horn, Myrtle Fundaburk,
Frank Sikes,

and further to do and perform what said Judge shall order and direct in that behalf. And this the
said Defendant shall in no wise omit, under penalty, etc. And we further command that you return
this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 18th day of
December 1928

T. W. Richerson Register

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

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ORIGINAL.

SERVE ON.....

Circuit Court of Baldwin County
In Equity.

No.

SUMMONS

Oscar Johnson,

RECORDED

vs.

W.R. Sikes, J.B. Sikes, W.R. Sikes,

Aldine Horn, Myrtle Fundaburk, and

Frank Sikes,

Lawrence Sikes
Satum Al Crenshaw

Beebe & Hall.

Solicitor for Complainant

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THE STATE OF ALABAMA.
BALDWIN COUNTY

Received in office this.....

day of 192

Sheriff.

Executed this *16* day of

Jan 192*7*

by leaving a copy of the within Summons with

W.R. Sikes, J.B. Sikes
Aldine Horn, Myrtle Fundaburk
+ Frank Sikes Defendant.

Sheriff.

W. L. Tatum

By Deputy Sheriff.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY SITTING.

Comes Oscar Johnson and humbly complaining against W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes respectfully shows unto your Honor:

FIRST:

That your Complainant, Oscar Johnson, is over the age of twenty-one years and a resident of Baldwin County, Alabama.

SECOND:

That the Defendants W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes are each over the age of twenty-one years and reside at Luverne, Alabama; that the said J. B. Sikes, W. R. Sikes, last mentioned, Aldine Horn, Myrtle Fundaburk and Frank Sikes are the heirs and next of kin of W. S. Sikes, who is deceased and who died intestate prior to the filing of this bill of complaint.

THIRD:

Your Complainant further shows that he is the owner of and is in the quiet and peaceable possession of the whole of the following described lands situated in the County of Baldwin, State of Alabama, to-wit:

The Southeast quarter of the Southwest quarter of Section twenty-nine, Township five South, Range three East.

That the said Defendants claim, or are reputed to claim some right, title or interest in, claim or encumbrance upon the said lands or some part thereof; that your complainant's title is disputed in that the said Defendants claim or are reputed to claim some right, title, interest in, claim or encumbrance upon said lands or some part thereof; that there is no suit pending to try or to test the validity of the right, title, interest in, claim or encumbrance upon the said lands of the said Defendants or any one of them.

FOURTH:

Complainant calls upon the said Defendants and each of them to set forth and specify what right, title, interest in, claim or

encumbrance upon the said lands or any part thereof, they or either of them have or claim to have, and how and by what instrument or instruments the same is created or derived.

Wherefore Complainant prays this Honorable Court will take jurisdiction of the cause made by this bill of complaint, that the said Defendants and each of them shall, by proper process of this court, be made party defendants to this bill of complaint; that upon the final hearing of the cause made by this bill of complaint this Honorable Court will make and enter a decree adjudging and decreeing that said Defendants and each of them have no right, title, interest in, claim or encumbrance upon the whole or any part of said lands and this Complainant prays for such other, further or different relief as in equity and good conscience he shall be entitled to in the premises.

Beche & Hall
ATTORNEYS FOR THE COMPLAINANT.

FOOT NOTE:

The Defendants are required to answer every allegation of this bill of complaint paragraphs first to fourth, both inclusive, but not under oath. Oath being hereby expressly waived.

Beche & Hall
ATTORNEYS FOR THE COMPLAINANT.

OSCAR JOHNSON,
Complainant,

vs

W. R. SIKES, J. B. SIKES,
W. R. SIKES, ALDINE HORN,
MYRTLE FUNDABURK and
FRANK SIKES,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Come Phillip G. Armstrong, as Executor of the last will and testament of Oscar Johnson, deceased, Elveria C. Armstrong and Agnes E. Utter and respectfully shows unto your Honor as follows:

That heretofore on to-wit, the 18 day of December 1928, Oscar Johnson, now deceased, filed his bill of complaint in the above styled cause against W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes, to quiet the title to certain lands described in the said bill of complaint; that while said suit was pending the said Oscar Johnson, on the 13 day of September 1939, departed this life leaving a last will and testament which has been duly admitted to probate and record as such in the Probate Court of Baldwin County, Alabama; that by the said will and testament the said Elveria C. Armstrong and Agnes E. Utter were devised the lands described in the said original bill of complaint; that Phillip G. Armstrong has been duly appointed and qualified as Executor under the said will and testament.

Wherefore the said Phillip G. Armstrong, as Executor aforesaid, and the said Elveria C. Armstrong and Agnes E. Utter pray said cause be revived in their names as parties Complainant.

And by leave of Court first had and obtained amends the said bill of complaint to read as follows:

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

Come Phillip G. Armstrong, as Executor of the last will and testament of Oscar Johnson, Deceased, and Elveria C. Armstrong and Agnes E. Utter and humbly complaining against W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes, and respectfully show unto your Honor as follows:

FIRST:

That your Complainants are each over the age of twenty-one years and residents of Baldwin County, Alabama; that W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes are each over the age of twenty-one years and residents of Luverne, Alabama; that the said W. R. Sikes last mentioned, Aldine Horn, Myrtle Fundaburk and Frank Sikes are the heirs and next of kin of one, W. R. Sikes, who is dead and who died intestate prior to the filing of this bill of complaint; that the said Phillip G. Armstrong is Executor of the last will and testament of Oscar Johnson, deceased, duly appointed and qualified by the Probate Court of Baldwin County, Alabama; that Elveria C. Armstrong and Agnes E. Utter are the owners of the lands hereinafter described by devise of the will of the said Oscar Johnson, deceased.

SECOND:

Your Complainants further show that they are the owners of and are in the quiet and peaceable possession of the whole of the following described lands situated in the County of Baldwin, State of Alabama,

to-wit:

The Southeast quarter of the Southwest quarter of Section twenty-nine, Township five South, Range three East.

THIRD:

That the said W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes claim or are reputed to claim

some right, title or interest in, or incumbrance upon the said lands or some part thereof, and your Complainants call upon them and each of them to set forth and specify his or her right, title, claim, interest in or incumbrance upon the same and how and by what instrument or instruments the same is created or derived.

FOURTH:

That no suit is pending to enforce or test the validity of such title, claim or incumbrance upon the said lands or any part thereof.

Wherefore Complainants pray this Honorable Court will take jurisdiction of the cause made by this bill of complaint and make the said W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes party Defendants to this bill of complaint and by appropriate process require them 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.

Complainants further pray that upon a final hearing of the cause made by this bill of Complaint this Honorable Court will order and decree that the said Defendants, W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes, and each of them have no right, title, interest in or incumbrance upon the said lands or any part thereof and that the title to the said property be quieted and established in these Complainants as against the said W. R. Sikes, J. B. Sikes, W. R. Sikes, Aldine Horn, Myrtle Fundaburk and Frank Sikes and that the said Defendants be forever enjoined from asserting or attempting to assert, or claiming or attempting to claim any right, title or interest in, lien or incumbrance upon the said lands or any part thereof, and Complainants further pray for such other, further or different relief as in equity they shall be entitled to receive.

Beebe & Hall
SOLICITORS FOR COMPLAINANTS.

~~FOOT NOTE:~~

Defendants are required to answer every allegation of the foregoing bill of complaint, paragraphs first to fourth, inclusive, but not under oath. Oath being hereby expressly waived.

Beebe & Hall
SOLICITORS FOR COMPLAINANTS.

I hereby accept service of the within and waive further notice to defendants, this the 12th day of September, 1930.

Walter H. Hays
Solicitor for W.R. Sikes,
J.B. Sikes, W.R. Sikes
Alden, Conn. Myrtle
Fund Bank and Grant
Sikes.