469

C. R. BALDWIN, Plaintiff, VS. ANGELO A. CORTE, et als, Defendants.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. AT LAW.

BRIEF AND ARGUMENT

By

J. B. Blackburn,
Attorney for Plaintiff,
Bay Minette, Alabama.

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STATEMENT OF THE CASE.

From the oral statement made by the attorneys for the Defendants when the Motion for a New Trial that was filed by the Defendants in this cause was set for hearing in Monroeville, Alabama, and from the brief filed by the Defendants' attorneys in support of their Motion for a New Trial, we understand that they rely on two things only to support their motion:

1. That the property sold by Smith was in his possession at the time of the sale by him to Dawson and therefore evidence of title in Smith;

2. That the statements made by Smith at the time of the sale to Dawson were evidence of ownership in Smith.

The Defendants contend that one or both of these things constituted a scintilla of evidence for them. In view of the position taken by the Defendants, we shall limit this brief and argument to these questions alone.

POINTS AND AUTHORITIES.

ONE: One who purchases chattels from another acquires no better title than his vendor had, although he purchased without notice of any infirmity in the title and for a valuable consideration.
Uniform Sales Act, Acts 1931 p. 57, par. 23;
First National Bank of Montgomery vs. Montgomery Cotton Company, 211 Ala. 551;
Kinney vs. Cullman County Farm Bureau, 217 Ala. 569;
Bennett vs. Brooks, 146 Ala. 490;
Blackman vs. Lehman, Durr and Company, 63 Ala. 547.

TWO: Mere possession of a chattel, if without title, or wrongfully, will give a right of action for any interference therewith, except as against the true owner or the person wrongfully deprived of possession.
Section 5662 of the 1907 Code of Ala.

THREE: Actual possession, or possession in fact exists when the thing is in the immediate occupancy of the party, or his agent or tenant.
Southern Railway Company vs. Hall, 145 Ala. 224; 41 So. 135.

FOUR: The possession of the agent is, as a matter of law, the possession of the principal.
Arledge vs. Pittman Tractor Company, 181 So. 91;
Southern Railway Company vs. Goodwyn, 202 Ala. 599, 81 So. 399.

FIVE: One who takes possession of property in subordination of another's title is ordinarily estopped as against the other to deny that title until he has given up the possession so acquired.
21 C. J. p. 1240, par. 246;
Nelson vs. Iverson, 19 Ala. 95.

SIX: A bailee, or one claiming under him, is estopped to deny the title of the bailor.
Blackman vs. Lehman, Durr Company, supra.

ARGUMENT.

The Defendants, in filing their motion for a new trial in this case have assumed two positions, neither of which is justified by the law or evidence in the case. They have first assumed that the hogs that were sold by Smith to Dawson were in possession of Smith at the time of the sale when there is not any evidence of any kind or character to show that this possession by Smith was possession in his own right. They have ignored, in their first assumption, the rule that the possession of an agent is the possession of the principal; that the possession of a servant is the possession of the master and that the possession of the bailee is the possession of the bailor.

For the Defendants to sustain and uphold the first position taken by them, that is, that possession is prima facie evidence of title, they must first show that evidence was introduced on the trial of the case showing that the possession of Smith on which they rely as evidence of title in Smith is possession by Smith in his own right and not as an agent, servant, employee or bailee of Baldwin. There is no such evidence. Because there is no such evidence this first position of the Plaintiff must necessarily fall. (authorities supra) In this connection, it will be remembered, that all of the evidence showed that the Plaintiff, Baldwin, was the owner of the property in question, which was sold by Smith to Dawson and subsequently by Dawson to the Defendants and further, there is not the least evidence to show that Smith was not the agent, servant, employee or bailee of the Plaintiff, Baldwin.

All of the evidence being to the effect that Smith was in possession of the property in subordination of Baldwin's titl

and as Baldwin's agent, servant or employee, his possession as such was the possession of Baldwin and consequently there is no presumption of the ownership of the hogs in Smith, the possession of Smith, the agent, servant, employee or bailor being the possession of the Plaintiff, Baldwin. Such possession is not evidence of title in Smith, but is, on the other hand, evidence of title in the Plaintiff, Baldwin.

The Court allowed the witness, Dawson, to testify over Plaintiff's objection that Smith said in substance that the hogs belonged to him. In this, we respectfully submit, the Court committed error. However, this was not error as to the Defendant but was, on the other hand, error as to the Plaintiff. When the Court subsequently and properly gave the general charge at the request of the Plaintiff, the rulings on this testimony became error without injury.

One who takes possession of property in subordination of another's title is estopped as against the other to deny that title until he has given up the possession so acquired. (authorities supra). This being the rule and as all of the evidence in the case shows that Smith went into possession of the property as the agent of the Plaintiff, Baldwin, and remained in such possession until Smith, without authority, sold the property to the witness, Dawson, the said Smith was, as against the Plaintiff, Baldwin, estopped to testify that he owned the hogs thereby denying the Plaintiff's title without having given up the possession of the hogs so acquired from the Plaintiff. For the Defendants to be entitled to the benefit of the statement which the witness, Dawson, testified, that Smith made to him, that is,

that Smith said that he owned the hogs, the Defendants must have by independent proof (not the testimony of Smith) shown that the said Smith was not the agent, servant, employee or bailee of the Plaintiff, Baldwin, or that the possession acquired from Baldwin was surrendered to him before the statement was made. There is no such evidence.

Almost the same situation as we have here arose in the case of Kinney vs. Cullman County Farm Bureau (supra) which was an action for conversion against defendant'buying fertilizer belonging to Plaintiff, but stored in seller's warehouse, evidence regarding conversation between Defendant and seller as to whether the whole of fertilizer or only so much belonged to Plaintiff, the Court held:

> "What passed in conversation between Defendant and Carothers (the seller) at the time when defendant purchased stuff in the warehouse, whether the whole of it or so much as belonged to the Plaintiff, and what it was worth, was wholly immaterial, since it did not purport to affect, nor could it in anywise affect, plaintiff's ownership of the nitrate of soda, which, indeed, was not denied." (emphasis ours)

The relationship of bailor and bailee and principal and agent are very similar and in certain cases are so similar that they are practically the same. In this connection we desire to call the Court's attention to the case of Blackman vs. Lehman, Durr and Company, supra, which was an action of trover for the conversion of certain bonds owned by the Plaintiff who had delivered the bonds to one, Locke, for safekeeping and in order that the said Locke could ascertain how plaintiff could raise money thereon. Locke was indebted to Lehman Brothers. He transferred the bonds and other property to the defendant who gave him drafts

on Lehman Brothers which he used in paying his indebtedness to them. Locke gave the defendants a sale-bill of the bonds and the defendants had no notice of plaintiff's right or claim to the bonds when they obtained them from Locke. The lower court gave the general charge at the request of the Defendants and refused the general charge requested by the Plaintiff. On appeal the Supreme Court held:

> "'It is a principle, almost universal in its application, that no man's property can be taken from him without his consent, express or implied, except by due process of law. The maintenance of the principle is essential to the peace and safety of society; and the insecurity which would follow from any departure from it would cause far greater injury, than any which can fall, in cases of unlawful appropriation of property, upon those who have been misled and defrauded.'"
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> * * * * * * * * * *
>
> "The possession of the plaintiff was sufficient to support the present action of trover, against the defendants acquiring possession, without title, from his bailee. The defendants are, equally with the bailee, from whom they obtained possession, estopped from denying the title of the plaintiff."Lowremore vs. Berry, 19 Ala. 130; Cook vs. Patterson 35 Ala. 102; Donnell vs. Thompson, 13 Ala. 440.

In the said case of Blackman vs. Lehman, Durr Company, the Supreme Court held that the lower Court erred in giving the general charge at the request of the defendant and in refusing to give the general charge at the request of the plaintiff.

In Volume 22 Corpus Juris, page 276, note 75 (a) it was held:

> "The general rule that the declarations of a vendor in possession of lands are competent for the purpose of explaining, qualifying and characterizing his possession cannot be extended to the declarations of an agent in possession in disparagement of the title and boundaries of his principal." Perkins v. Brinkley, 133 N. C. 348, 45 SE. 652.

The case of Moore and Company vs. Robinson, 62 Ala. 537, held as follows:

> " * * * * that while possession is prima facie evidence of ownership of every species of personal property, yet, whoever deals with such possession upon the mere evidence which possession affords, takes upon himself the risk that there is another and true owner, and the burden of proving, should there be such better owner, that he had, by his own act, authorized the sale, ratified it, or furnished evidence of the seller's authority to dispose of the goods, other than his mere possession, although that possession, as possession, was permissive. So, in the case of the Idaho, 3 Otto, 575, the court say: "It is hardly necessary to say that the title of the true owner of personal property cannot be impaired by the unauthorized acts of one not the owner. Taking possession of the property, shipping it, obtaining bills of lading from the carriers, indorsing away the bills of ladiing, or even selling the property and obtaining a full price for it, can have no effect upon the right of the owner. Even a bona fide purchaser obtains no right by a purchase from one who is not the owner, or not authorized to sell." Bott v. McCoy, 20 Ala. 578; Sto. on Agency, par. 225. As a general rule, the title of property, like the flow of a stream, cannot rise higher than its source; and so, one not the owner, and not having authority therefor, conferred by the owner, cannot sell, or make a valid pledge of property."

The case of Fairbanks Morse and Company vs. Eureka Company, 67 Ala. 109, was an action in detinue to recover a "track scale". The Plaintiff, Fairbanks Morse and Company sold the scale to one, Godfrey, who executed a conditional sales contract. Godfrey, while in possession of the scale, sold it to the Defendant who was a bona fide purchaser who had no actual notice of the written contract between the Plaintiff and Godfrey. (It will be noticed that from the facts in this case the seller, Godfrey, had an actual interest in the property, while in the present case the seller, Smith, was the undisputed agent or servant of the Plaintiff, Baldwin, and had no possession of the property in his own right.) In the said case of Fairbanks Morse

Company vs. Eureka Company, the Court laid down the following rules:

> "It is only when some one has relied on possession, as conclusive evidence of ownership, while the law authorizes him to treat it as simply prima facie, or presumptive evidence, that there is complaint of this and kindred principles, which have long prevailed in the law of sales of personal property. The law has not invited such reliance, and it is folly, or misfortune, that he ascribes to it a higher dignity, and a conclusiveness the law has not ascribed. When the owner of personal property parts with the possession merely, not conferring any other indicia or evidence of ownership, it is a wrong to him, a deprivation of his property without his consent, if the possession is converted into more than prima facie evidence of title. That the possession is coupled with a contract, by which, on the performance of a condition, the possessor can acquire title, cannot be material; for, if the purchaser from him has notice of the contract, he is without equity to protection against it; and if he has no notice, he is merely in the condition in which the most prudent have often been placed, purchasing property from one who has no title, or an infirm title.
>
> It is a universal and fundamental principle of the law of personal property, that the owner shall not be deprived of his property without his consent, except by due process of law. "The maintenance of the principle", as was said by Justice Fields, in Telegraph Co. v. Davenport, 97 U. S. 372, "is essential to the peace and safety of society, and the insecurity which would follow from any departure from it, would cause far greater injury that any which can fall, in cases of unlawful appropriation of property, upon those who have been misled and defrauded." - Saltus v. Everett, 20 Wendell, 270; Blackman v. Lehman, 63 Ala. 547; Leigh v. M. & O. R. R. Co. 58 Ala. 165. Upon this principle rest numerous cases, to be found in the books, many of them seemingly hard and distressing, in which honest and innocent persons, trusting to possession as the evidence of ownership, have been compelled to yield to the true title, even though they were without remedy to recover the money paid, or the property with which they had parted."

We have read the cases of Corona Coal Company vs. Thomas 212 Ala. 56, Turnipseed vs. Burton, 40 Ala. App. 612, Bowdoin vs. Bradley 11 Ala. App. 530, and Bazzell vs. State, 16 Ala. App. 663, all of which hold that possession of property is evidence of ownership. However, in none of these cases was the possession by an agent, servant, employee or bailee who acquired his possession

in subordination of the title of another and consequently none of these cases are for this reason applicable to the present case or authorities for the position taken by the Defendants.

The case of Birmingham Southern Railroad Company vs. Goodwyn, 202 Ala. 599, which the Defendants cited in their brief is the only case which they cited that discusses possession by an agent. As we understand this case it is much better authority for the Plaintiff than for the Defendants and we have cited it in our brief because it distinctly holds as follows:

> "The possession of a chattel by a servant under the immediate control of the master in contemplation of law is the possession of the master."

The Defendants also cited a quotation from 50 C. J. at page 76 but this citation clearly states the rule that possession is good against anyone except the true owner and in the present case this suit was filed by the true owner, the Plaintiff, Baldwin. There is not a scintilla of evidence in this case for the Defendants and therefore the Court properly gave the general charge at the request of the Plaintiff. This was done at the completion of the trial while the evidence and all other phases of the case were fresh in the Court's mind. The Court committed no error in this ruling and therefore we respectfully submit that the Defendants' Motion for a New Trial should be denied and we confidently expect that the Court will make such order.

Respectfully submitted,

J. T. Blackburn

Attorney for Plaintiff.

I hereby certify that I did on the 26th day of October, 1940, mail a copy of this Brief and Argument to Messrs. Hybart and Chason, Attorneys for the Defendants, by United States Mail, postage prepaid, addressed to them at Bay Minette, Alabama.

Dated this 26th day of October, 1940.

J. T. Blackburn

Attorney for Plaintiff.

DETINUE AFFIDAVIT.

STATE OF ALABAMA
BALDWIN COUNTY

Before me, the undersigned authority, within and for said county in said State, personally appeared C. R. Baldwin, who, after being first duly and legally sworn, deposes and says: That the property sued for in the complaint of C. R. Baldwin against Angelo A. Corte, John Arthur Corte, Ernest D. Corte, Attillo I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, Individually, and as Partners, doing business under the firm name and style of A. A. Corte and Sons, to-wit: Forty head of hogs consisting of six black, one white and thirty-three red hogs, belongs to the said C. R. Baldwin, the said Plaintiff.

C. R. Baldwin

Sworn to and subscribed before me
on this the 19th day of August, 1938.

Ora Simon

Notary Public, Baldwin County, Alabama.

DETINUE BOND.

STATE OF ALABAMA }
BALDWIN COUNTY }

KNOW ALL MEN BY THESE PRESENTS: That we, C. R. Baldwin, as Principal, and S. F. Holmes and C. L. White, as Sureties, are held and firmly bound unto Angelo A. Corte, John Arthur Corte, Ernest D. Corte, Attillo I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, Individually, and as Partners doing business under the firm name and style of A. A. Corte and Sons, in the sum of Fifty Dollars ($50.00), for the payment of which we jointly and severally bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this 19th day of August, 1938.

The condition of the above obligation is such that whereas, the above bounden C. R. Baldwin has, on the 19th day of August, 1938, sued out from the office of the Clerk of the Circuit Court of Baldwin County, Alabama, a Writ of Detinue returnable to the Circuit Court of Baldwin County, Alabama, against Angelo A. Corte, John Arthur Corte, Ernest D. Corte, Attillo I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, Individually and as Partners doing business under the firm name and style of A. A. Corte and Sons, for the recovery of the following described property, to-wit: Forty Head of hogs consisting of six black, one white and thirty-three red hogs.

Now, if the said C. R. Baldwin shall fail in the said suit and shall pay to the said Angelo A. Corte, John Arthur Corte, Ernest D. Corte, Attillo I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, Individually, and as Partners doing business under the firm name and style of A. A. Corte and Sons, the Defendants in the said Writ, all such costs and damages as they may sustain by the wrongful suing out thereof, then this obligation to be void, otherwise to remain in full force and effect.

C. R. Baldwin (SEAL)
As Principal.

S. V. Holum (SEAL)

C. Fennell (SEAL)
As Sureties.

Taken and approved this 19th day
of August, 1938.

Robert S. Duck

Circuit Clerk.

By: Nauslice Thompson,
Deputy - Clerk.

RECORDED

DETINUE AFFIDAVIT AND BOND.

C. R. BALDWIN,

Plaintiff,

VS.

ANGELO A. CORTE, et als,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW. NO._____.

Filed August 19, 1935
R. S. Duck, Clerk
By: Caudice Hampson
Deputy Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

C. R. BALDWIN, Plaintiff, VS. ANGELIO A. CORTE, JOHN ARTHUR CORTE, ERNEST CORTE, ATTILIO CORTE, ALBERT CORTE, FERDENAND A. CORTE, JULIO CORTE, AND ADELE CORTE, Individually and as Partners Composing the firm of A. A. CORTE & SONS, Defendants.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

Now comes the defendants in the aforesaid cause, separately and severally and moves the Court to grant to them a new trial in the aforesaid cause and assigns as grounds therefor:

1. That the verdict of the jury was contrary to the evidence.

2. The Court erred in directing the jury to find its verdict against the defendants.

3. The Court erred in giving the general or affirmative charge for the Plaintiff in the aforesaid cause.

Hybart & Rasco
Attorneys for Defendants.

TO: J. B. BLACKBURN, Attorney for Plaintiff:

The above and foregoing motion was presented to me on September 16th 1940 and taken under consideration and is this day ordered granted and the cause order reinstated on the docket for a new trial.

This February 18th 1941

T. W. Hare
Judge

Returned Duchess

RECORDED page 95

Motion for New Trial

Filed September 16, 1940
R. S. Duck, Clerk

STATE OF ALABAMA.

BALDWIN COUNTY

Before me, Louise Johnson, a Notary Public, in and for Monroe County, Alabama, personally appeared John Chason, who is known to me, and who, after being by me first duly and legally sworn, doth depose and says under oath as follows:

That there is a suit now pending in the Circuit Court of Baldwin County, Alabama, in which C. R. Baldwin is Plaintiff, and Angello A. Corte, Et al., are defendants; that the firm of Hybart & Chason are Attorneys for said defendants, and that affiant is a member of said firm. That the said firm of Hybart & Chason were employed to represent the defendants in the above mentioned suit, but that affiant, through oversight, failed to file an appearance within the time allowed by law and a judgment was rendered in said cause on March 2, 1939, as follows: "Judgment by default for Plaintiff, with right to execute writ of inquiry at next jury session." That the defendants have a meritorious defense to said suit, which they should have a right to impose.

John Chason

Sworn to and subscribed before me
this 13th day of March, 1939.

Louise Johnson
Notary Public, Monroe County,
Alabama.

C. R. BALDWIN

VS.

ANGELLO A. CORTE, ET AL.

AFFIDAVIT

Filed March 13, 1939
R. S. Deuch, Register
By Kathleen Thompson, Deputy

C. R. BALDWIN,

Plaintiff,

-vs-

ANGELO A. CORTE, JOHN ARTHUR CORTE, ERNEST D. CORTE, ATTILLO I. CORTE, ALBERT CORTE, FERDINAND A. CORTE, JULIO CORTE AND ADELE CORTE, Individually, and as Partners, doing business under the firm name and style of A. A. CORTE AND SONS,

Defendants.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Come the Defendants in the above styled cause, and for answer to the Complaint filed in said cause say as follows:-

As to Count One of the Complaint the Defendants say:-

Non detinet.

As to Count Two of the Complaint the Defendants say:-

Not guilty.

Attorneys for Defendants.

ANSWER.

C. R. BALDWIN,

Plaintiff,

-vs-

ANGELO A. CORTE, JOHN ARTHUR CORTE, ERNEST D. CORTE, ATTILLO I. CORTE, ALBERT CORTE, FERDINAND A. CORTE, JULIO CORTE AND ADELE CORTE, Individually and as Partners, doing business under the firm name and style of A. A. CORTE AND SONS,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed March 14, 1939

R. S. Duck Clerk.

C. R. BALDWIN,

Plaintiff,

VS.

ANGELO A. CORTE, JOHN ARTHUR CORTE, ERNEST D. CORTE, ATTILLO I. CORTE, ALBERT CORTE, FERDINAND A. CORTE, Individually, and as Partners doing business under the firm name and style of A. A. CORTE AND SONS,

Defendants.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

AT LAW.

Now comes the Plaintiff in the above entitled cause and respectfully represents that one of the Defendants, namely, A. A. Corte, died on the 13th day of March, 1941; that a suggestion of his death was made of record at a call of the docket of this Court on the 16th day of April, 1941, that his Last Will and Testament was admitted to probate and record in and by the Probate Court of Baldwin County, Alabama, on the 15th day of August, 1941, Letters Testamentary were issued to the Executors named therein on the 19th day of August, 1941, and to date the Executors named in the said Last Will and Testament and the devisees named therein have wholly failed to come into Court and make themselves parties Defendant in this cause:

WHEREFORE Plaintiff moves the Court to issue a citation to J. Arthur Corte, Ernest D. Corte and Atilio I. Corte, as Executors of and under the Last Will and Testament of A. A. Corte, Deceased, and to J. Arthur Corte, Ernest D. Corte, Atilio I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, the devisees named in the said Last Will and Testament, requiring them and each of them to appear and make themselves parties Defendant to this suit within thirty days after which time the suit may be revived against them as provided by Title 7, Section 154 of the 1940 Code of Alabama.

J. T. S. Blackburn

Attorney for Plaintiff.

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MOTION

Strahan Docket

RECORDED

C. R. BALDWIN,

Plaintiff,

VS.

ANGELO A. CORTE, JOHN ARTHUR CORTE, ERNEST D. CORTE, ATTILLO I. CORTE, ALBERT CORTE, FERDINAND A. CORTE, Individually, and as Partners doing business under the firm name and style of A.A. Corte and Sons,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW.

Filed Oct. 1, 1941
R.S. Leach, Clerk

STATE OF ALABAMA)
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Angelo A. Corte, John Arthur Corte, Ernest D. Corte, Attillo I. Corte, Albert Corte, Ferdinand A. Corte, Julio Corte and Adele Corte, Individually and as partners, doing business under the firm name and style of A. A. Corte and Sons, to appear within thirty days from the service of this writ to be held for said county at the place of holding same, then and there to answer the complaint of C. R. Baldwin.

Witness my hand this 19th day of August, 1938.

[illegible] S. Duck

Clerk of the Circuit Court.
By: VanAlice Thompson
Deputy-Clerk

: :

C. R. BALDWIN,
Plaintiff,

VS.

ANGELO A. CORTE, JOHN ARTHUR CORTE, ERNEST D. CORTE, ATTILLO I. CORTE, ALBERT CORTE, FERDINAND A. CORTE, JULIO CORTE AND ADELE CORTE, Individually, and as Partners, doing business under the firm name and style of A. A. CORTE AND SONS,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER ____.

1. Plaintiff claims of the Defendants the following personal property, viz: Forty head of hogs, consisting of six black, one white and thirty-three red hogs; with the value of the hire or use thereof during the detention viz: from the 15th day of August, 1938.

2. Plaintiff claims of the Defendants $400.00, damages for

the conversion by them, on to-wit: the 18th day of August, 1938, of the following chattels: Forty head of hogs, consisting of six black, one white and thirty-three red hogs, the property of the Plaintiff.

J. B. Blackburn

Attorney for Plaintiff.

Plaintiff demands a trial of said cause by jury.

J. B. Blackburn

Attorney for Plaintiff.

RECORDED

SUMMONS AND COMPLAINT.

C. R. BALDWIN,

Plaintiff,

VS.

ANGELO A. CORTE, et als,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW. NO.____.

Filed August 19, 1938
R. S. Duck, Clerk
By: Mildred Thompson
Deputy Clerk.

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

STATE OF ALABAMA
BALDWIN COUNTY

TO M. H. WILKINS, SHERIFF OF SAID COUNTY:

Whereas, the Plaintiff in the within stated cause has made affidavit and given bond as required by law you are hereby required to take the property mentioned in Complaint into your possession unless the Defendants give bond payable to the Plaintiff with sufficient surety in double the amount of the value of the property, with condition that if the Defendants are cast in the suit they will within thirty days thereafter deliver the property to the Plaintiff and pay all damages and costs which may accrue from the detention thereof.

Dated this 19th day of August, 1938.

R. S. Duck, Clerk.
By: Mildred Thompson
Deputy Clerk

Filed the day and date first above written.

Judgment for Plaintiff and damages fixed at $200.00

Filed August 1st 1938
In Law & equity to the
within named defendants
Angelo A. Corte,
Johnathan Corte,
Ernest A. Corte,
Attilio Corte &
Albert Corte,
Antonino Corte,
Julio Corte,
Alfie Corte, infants
over 14 years of age and
under the age of 21 years
A. A. Corte sole and demised

CIVIL SUBPOENA--ORIGINAL--In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he will be barred

Moore Printing Co. Bay Minette, Ala.

The State of Alabama, Baldwin County

S. D. Page No. _____
Case No. 469

CIRCUIT COURT
Fall Term, 1940

469

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON D. L. Teel, Ed Middleton, Roy Dawson, R. H. Dawson, Truman Hinote

if to be found in your County, at the instance of the Defendant

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 8:30 o'clock of the forenoon, on the 10 day of Sept, 1940, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein C. R. Baldwin Plaintiff

and Angelo A. Corte Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 5 day of Sept, 1940

R. S. Duck CLERK.

Received in office this 5 day of

Sept 1940

W R Stewart

By [illegible] SHERIFF

I have executed this writ by serving

D. L. Leal Ed Middleton

R. H. Dawson Ray Dawson

Sherman Shemote

W R Stewart

R. H. Dawson SHERIFF

Fee

ORIGINAL

No. 469 Page

THE STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

C R Baldwin

Plaintiff

VS.

Angelo A. Corte

Defendant

CIVIL SUBPOENA

Issued this day of

193

Clerk.

CIVIL SUBPOENA--ORIGINAL--In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he will be barred

Moore Printing Co. Bay Minette, Ala.

The State of Alabama,
Baldwin County

S. D. Page No. _____
Case No. 469

CIRCUIT COURT
Fall Term, 1940

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON C. L. Mathews

if to be found in your County, at the instance of the plaintiff

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 8:30 o'clock of the forenoon, on the 10 day of September 1940, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein C. R. Baldwin Plaintiff

and Angelo A. Corte Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 9 day of Sept., 1940

R. S. Deck CLERK.

Received in office this 9 day of

Sept 193 40

W R Stuart

SHERIFF

I have executed this writ

C L Mathews 9/9/40

W R Stuart

SHERIFF

By M. C. Hamilton

ORIGINAL

No. 469 Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

C. R. Baldwin

Plaintiff

VS.

Angelo A. Parker

Defendant

CIVIL SUBPOENA

Issued this day of

193

Clerk.

CIVIL SUBPOENA--ORIGINAL--In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he will be barred

Moore Printing Co. Bay Minette, Ala.

The State of Alabama, Baldwin County

S. D. Page No. _____
Case No. 469

CIRCUIT COURT
Fall Term, 1940

To Any Sheriff of the State of Alabama, GREETING;

YOU ARE HEREBY COMMANDED TO SUMMON John R. Davis, C. N. Anderson, Pat Brock, Taylor Wilkins, W. E. Perry

if to be found in your County, at the instance of the plaintiff

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 8:30 o'clock of the forenoon, on the 10 day of September 1940, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein C. R. Baldwin Plaintiff

and Virgilo A. Corte Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 5 day of September, 1940

R. S. Deuel CLERK.

Received in office this 5th day of

September 1940

M R Stuart

SHERIFF

I have executed this writ

This 5th September 1940

by leaving Copy With

John R Davis

C N Anderson

Pat Brooks

Taylor Wilkins

W C Percy

M R Stuart

SHERIFF

ORIGINAL

No. 469 Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

C. R. Baldwin

Plaintiff

VS.

Angelo A. Corte

Defendant

CIVIL SUBPOENA

Issued this day of

193

Clerk.

JURY LIST, FIRST WEEK,
SEPTEMBER 9, 1940

1. ~~C. Maynard Coglan, Farmer, Latham.~~
2. ~~Harvey S. Rodgers, Geodetic Survey, Perdido.~~
3. ~~Scrap T. Shiver, Farmer, Perdido.~~
4. ~~Herbert H. Killerease, Farmer, Bay Minette.~~
5. ~~Thomas L. Taylor, Farmer, Bay Minette.~~
6. Joe C. Durant, Farmer, Bay Minette.
7. Larkin T. Rhodes, Merchant, Bay Minette.
8. Edward D. Noonan, Newport, Bay Minette.
9. Neal H. McDuffie, Cafe Operator, Bay Minette.
10. Curtis B. Daniels, Merchant, Bay Minette.
11. James E. Young, Merchant, Bay Minette.
12. Leonard J. Hooper, Newport, Bay Minette.
13. James H. Faulkner, Publisher, Bay Minette.
14. ~~Hiram C. Taylor, Farmer, Bay Minette.~~
15. ~~James D. Morris, Farmer, Gateswood.~~
16. ~~Hollie V. Harrell, Merchant, Stapleton.~~
17. ~~Alton B. Hankins, Farmer, Loxley.~~
18. ~~Eddie L. Hiles, Mechanic, Loxley.~~
19. ~~Ferdinand A. Corte, Farmer, Loxley.~~
20. ~~Andy L. McDaniel, Farmer, Robertsdale.~~
21. ~~Nolan P. Cooper, Farmer, Rosinton.~~
22. ~~John T. Hadley, Laborer, Foley.~~
23. ~~James A. Walters, Farmer, Bon Secour.~~
24. ~~J. Emmet Wenzel, Merchant, Bon Secour.~~
25. ~~Thomas L. Steele, Farmer, Bon Secour.~~
26. ~~James A. Crane, Mechanic, Stockton.~~
27. ~~Preston Snowden, Contractor, Bay Minette.~~
28. ~~Y. Charles Hall, Farmer, Bay Minette.~~
29. ~~John H. Hadley, Filling-Station, Bay Minette.~~
30. ~~James Lee Smith, Teacher, Bay Minette.~~
31. Norvelle Lee Cabaniss, Farmer, Bay Minette.
32. ~~W. DeVan Stapleton, Insurance, Bay Minette.~~
33. ~~Jesse W. Joyner, Filling Station, Bay Minette.~~
34. ~~William J. Etheridge, Plumber, Bay Minette.~~
35. ~~H. Pete Jones, Merchant, Bay Minette.~~
36. ~~Will F. Herron, Carpenter, Bay Minette.~~
37. Dennis C. Byrne, Filling-Station, Bay Minette.
38. ~~Dennis B. Howell, Barber, Bay Minette.~~
39. ~~Sherman M. Gideons, Salesman, Bay Minette.~~
40. William A. Thompson, Ins. Agent, Bay Minette.
41. Frank M. Feminear, Clerk, Bay Minette

P 13 / IIII IIII III
D 12 / IIII IIII I

1. The Court charges the jury that if you believe the evidence in this case you should find for the Plaintiff under count One of the Complaint.

Given
F. W. Hare
Judge

STATE OF ALABAMA

DEPARTMENT OF AGRICULTURE AND INDUSTRIES

BILL OF SALE

1 Bull
1 white
1 black

STATE OF ALABAMA,

COUNTY OF [illegible] Co.

This is to certify that I have this day sold to

[illegible]

the following described animals, to-wit:

Kind of Animals [illegible]

Number 36

Breed [illegible]

Approximate Weight 2000

Color Red 3 6 Black

Brand or Mark 7 over [illegible] R ear

Place [illegible]

Date [illegible]

Signed [illegible]
Owner

Witness

MOORE PRINTING CO. BAY MINETTE, ALA.

STATE OF ALABAMA,

DEPARTMENT OF AGRICULTURE AND INDUSTRIES

BILL OF SALE 1 Black sow
1 Red "
1 white "

STATE OF ALABAMA,

COUNTY OF Pickens Co

This is to certify that I have this day sold to

Ray Pattison

the following described animals, to-wit:

Kind of Animals Hogs Paid $10.00

Number 40 head Paid $70.00

Breed Duroc

Approximate Weight 2000

Color Red Black 1 white 3

Kind of Mark [illegible]

Place Fairfax

Date July 25 1928

Signed Jim Smith
Owner.

Witness Robert Bell

MOORE PRINTING CO. BAY MINETTE, ALA.