

THE STATE OF ALABAMA }  
COUNTY OF BALDWIN }

C. A. GEARHART, ADMINISTRATOR }  
OF THE ESTATE OF FRANK L. }  
BALLENGER, DECEASED, WITH THE }  
WILL ANNEXED, AND AS ADMINIS- }  
TRATOR OF THE ESTATE OF ALICE }  
P. BALLENGER, DECEASED, }  
HERBERT DONALD PRATT, CLARENCE }  
K. PRATT AND GEORGIANA PRATT }  
JANETZ, }

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

COMPLAINANTS, :

VS. }

ARTHUR T. BONNER, :

RESPONDENT. }

Comes the Respondent and demursing to the Bill of Complaint herein exhibited against him and separately and severally to each and every paragraph thereof, and each alternative thereof, and separately and severally to each and every aspect, phase, theory, matter, thing, alternative and averment therein contained, and separately and severally to the prayer, and separately and severally to each paragraph and alternative of the prayer, and separately and severally to each form, character, species, alternative and item of the relief prayed for therein, sets down and assigns the following separate and several grounds of demurrer, separately to each, to-wit:

1. The same contains no equity.
2. The same is vague, indefinite and uncertain in its averments.
3. The same shows on its face that Complainants have no right to maintain this suit.
4. The same shows that said lands therein described were sold for taxes and that this Respondent has a tax deed therefor.
5. The same shows that said lands therein described were sold for taxes and that this Respondent has a tax deed therefor, and the same does not aver or show that Complainants, or anyone of them, have complied with the law necessary to redeem said property.
6. The same shows that said lands therein described were sold for taxes and that this Respondent has a tax deed therefor, and the same does not aver or show that Complainants, or either one of them, tendered to this Respondent the amount required by law to effect redemption of said property within the time allowed and provided by law.

7. The same does not aver or show that said lands therein described were not subject to be sold for the payment of the taxes for which the same was sold.

8. The same does not aver or show that Complainants have the legal title to the property therein described.

9. The same shows that this Respondent has the legal title to the property therein described and that Complainants have no right to maintain the same.

10. The same does not aver or show the ages of Complainants.

11. The same does not allege or show whether Complainants are over or under twenty-one years of age.

12. The same does not set out or show any facts therein on which the averment that Complainants owned the property therein described may be based.

13. The same does not set out or show any facts therein on which the averment that Complainants owned the property therein described may be based, and the same does show that Complainants have lost what title they had by virtue of the tax sale therein referred to.

14. The same shows that this Respondent is entitled to the possession of the property therein described and that the Complainants are not entitled to possession thereof.

15. The same does not aver or show that said property therein described was not subject to taxation.

16. The same does not aver or show that Complainants paid the taxes on the property therein described prior to the time of said sale therein referred to for said taxes.

17. The same does not aver or show what, if anything, Complainants have done to effect redemption of said property.

18. The same does not aver or show whether Complainants are in the actual or constructive possession of said lands.

19. The same does not aver or show what interest each of the Complainants have in and to said lands therein described.

20. The same does not allege or show whether the Complainant C. A. Gearhart owned said lands in his own right or as a personal representative.

21. The same is inconsistent in that the same avers that Complainants owned the property therein described and then Complainants

set out therein facts showing that the legal title in and to said property is in this Respondent.

22. The same shows no right on the part of Complainants to maintain the Bill of Complaint herein.

23. The same does not aver or show that said tax sale therein referred to was irregular or was not legally and properly conducted.

24. The same does not allege or show that Complainants tendered to Respondent any sum of money prior to the institution of this suit in connection with the matters and things therein referred to.

25. The same does not aver or show that Respondent does not have a legal title to the property therein referred to.

26. The same seeks to implead this Respondent in this cause and shows on its face that Complainants have no right under the averments therein contained to institute this suit.

27. The same does not aver or show that Complainants, nor any of them, made application to the State Land Commissioner or to the Probate Judge of Baldwin County, Alabama, or to Respondent, or to any one else or did anything else to effectuate the redemption of the property described in the Bill of Complaint before the filing of this suit.

28. The same shows no occasion to resort to a court of equity.

29. The same does not aver or show that Complainants, or any of them, were in the actual possession of said property therein described at the time this suit was filed.

30. The same does not aver or show that no other suit is pending to test the validity of Respondent's claim between Respondent and Complainants.

31. The same does not allege or show any right to join the personal representative Complainant therein with the other Complainants therein, and there is, therefore, a misjoinder of parties Complainant.

32. There is a misjoinder of parties Complainant therein in that the same does not aver or show any joint interest in Complainants in and to the lands therein described.

33. Complainants do not offer to do equity therein.

34. The same does not aver or show whether Complainants are owners under a legal or an equitable title.

X  
35. The same does not aver or show whether there were any debts of said estate or estates being administered by the personal representative Complainant therein.

36. The same does not question the validity of the tax lien on the lands therein described or the sale of said lands under said tax lien or the purchase of said lands by this Respondent, and the same, therefore, shows no right in Complainants to implead this Respondent herein.

37. The same admits the perfection of a lien upon the properties therein described in consequence of a valid assessment for taxation and that said lien was foreclosed by sale of said property and that Respondent was the purchaser at said sale and has a deed to said property, and the same, therefore, shows that Complainants have no right to proceed herein against this Respondent.

38. A cloud on title is never cast by a valid claim which may be enforced in law or equity and by the averments thereof the Complainants show that said lands therein described became subject to tax lien and in enforcing said tax lien that a sale of said property made as to said property to Respondent and that deed duly issued to Respondent, and the same, therefore, shows no occasion to resort to a court of equity in manner and form therein set out.

39. The same does not aver or show that said tax lien and assessment and consequent sale and the execution of deed to this Respondent in connection with said tax lien and sale was invalid, and the same, therefore, show no right in Complainants to proceed therein.

40. The evident purpose thereof is to redeem property sold for taxes under tax lien, and the same does not aver or show that said tax proceedings are void or irregular in any way.

41. Under the averments therein contained Complainants have no right to maintain the Bill of Complaint herein.

42. If Complainants have a right to redeem, they have a plain and adequate remedy at law, and if Complainants do not have a right to redeem, there is no occasion therein shown to resort to a court of equity.

43. If Complainants have any rights, the same shows that Complainants have a plain and adequate remedy at law.

44. If Complainants have any rights, the same shows that Complainants have a plain and adequate remedy at law, and Complainants do not aver therein that they have resorted to the remedies provided by law, and the same is, therefore, improperly in this court.

45. The same shows that Complainants have resort to legal remedies for any rights they may have, and the same is, therefore, improperly filed in equity.

46. The laws of Alabama have prescribed the manner and method by which the rights therein asserted by Complainants may be obtained, and the law prescribes that these things must be done in a different forum, and, therefore, the same are improperly asserted in a court of equity.

47. The same shows that this Respondent is entitled to demand a deed for the lands therein described in connection with the said tax sale therein referred to, and that this suit was not begun before the Respondent was entitled to demand a deed, and any rights Complainants have are barred by the statute of limitations.

48. The same shows that this Respondent is entitled to demand a deed for the lands therein described in connection with the said tax sale therein referred to, and that this suit was not begun before the Respondent was entitled to demand a deed, and any demands or rights Complainants have or may have had are stale demands, and Complainants are now precluded from asserting the same.

49. The same does not aver or show that Complainants paid the taxes for which said lands therein described were sold.

50. The same does not call upon this Respondent to set forth and specify his title, claim, interest or encumbrance upon the lands described therein and how and by what instrument the same is derived and created.

51. The same does not allege or show that there is no suit pending to enforce or test the validity of the Respondent's title, claim or encumbrance upon, in and to the lands therein described.

Reuben H. Wright

Ward H. Mizell  
Solicitors for Respondent.

NOTE: The address of Respondent's Solicitors is 201-10  
Alston Building, Tuscaloosa, Alabama.

Ruben H. Knight  
Ward H. McFarland  
Solicitors for Respondent

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

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon

ARTHUR T. BONNER

of \_\_\_\_\_ 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 Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

C. A. GEARHART, Administrator

against said ARTHUR T. BONNER,

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, Robert S. Duck, Register of said Circuit Court, this 11th day of December 1937

 Register

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

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

Come C. A. GEARHART, Administrator of the estate of  
Frank L. Ballenger, deceased, with the will annexed, and as Admin-  
istrator of the estate of Alice P. Ballenger, deceased, HERBERT  
DONALD PRATT, CLARENCE K. PRATT and GEORGIANA PRATT JANETZ, and  
humbly complaining against ARTHUR T. BONNER, respectfully show un-  
to your Honor:

FIRST:

That your complainants and the said Arthur T. Bonner are  
each over the age of twenty-one years; that C. A. Gearhart is a resi-  
dent of Baldwin County, Alabama; that Herbert Donald Pratt, Clarence  
K. Pratt and Georgiana Pratt JanetZ are non-residents of the State  
of Alabama, residing in Cook County, Illinois; that the said Arthur  
T. Bonner is a resident of Corona, in Walker County, Alabama.

SECOND:

That your complainants own and are in the peaceable pos-  
session of the following described real property situated in the  
County of Baldwin, State of Alabama, to-wit:

The Northwest quarter of the Southwest quarter of the  
Southeast quarter and the East half of the Southwest  
quarter of the Southeast quarter of Section twenty-  
five (25), Township five (5) South, Range four (4)  
East, Baldwin County, Alabama.

THIRD:

That their title to the said property is disputed in  
this, that the said Arthur T. Bonner claims or is reputed to claim  
some right, title, interest in or incumbrance upon the said lands,  
or some part thereof; that no suit is pending to test the validity  
of the said right, title, interest in, claim or incumbrance upon  
the said lands, or any part thereof, and complainants call upon the  
said Arthur T. Bonner to set forth and specify his claim, right,  
title, interest in or incumbrance upon the said lands and each part  
thereof, and how and by what instrument or instruments the same is  
derived or created.



FOURTH:

Complainants further allege that on, to-wit, September 1st, 1933, under an assessment to C. A. Gearhart, as Administrator of the estates of Frank L. Ballenger and Alice P. Ballenger, deceased, the said properties described above were sold for taxes and purchased by the State of Alabama; that on the 17th day of December, 1935, the State of Alabama transferred and assigned the certificate of said sale to Arthur T. Bonner, and on December 9th, 1937, deed therefor was made to the said Arthur T. Bonner; that the only claim, right, title, interest in or incumbrance upon the said lands, or any part thereof, is under and by virtue of the aforesaid certificate and deed.

FIFTH:

Complainants further allege that at the time of the assessment of the aforesaid lands, that at the time of the sale of the said lands for taxes and purchase by the state, and that at the time of the execution and delivery of the tax deed to the said Arthur T. Bonner, the complainants were the owners of the said lands and were in actual possession of the same, and are now and have been continuously in possession of the said lands.

WHEREFORE, your complainants pray this Honorable Court will take jurisdiction of the cause made by this bill of complaint, and by appropriate process make the said Arthur T. Bonner a party defendant hereto, and require him to plead, answer or demur to this bill of complaint within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that upon a final hearing of this cause this Honorable Court will ascertain the amount of taxes paid by the said Arthur T. Bonner for the said lands, and taxes subsequently paid by the said Arthur T. Bonner on the lands last described and interest thereon, and that complainants be permitted to pay such amount as this Honorable Court shall ascertain, and to re-

deem the said lands last above described from the said tax sale; and that this Court will make and enter a decree quieting and establishing the title of the complainants in and to the aforesaid lands, and decree that the said Arthur T. Bonner has no right, title, claim, interest in or incumbrance upon the said lands, or any part thereof, and complainants pray for such other, further or different relief as in equity and good conscience they shall be entitled to receive in the premises, and the complainants place themselves wholly within the jurisdiction of this Honorable Court and offer to do and perform whatsoever this Court shall require of them in the premises.

Bebe Hall & Bebe  
Attorneys for Complainants.

FOOT NOTE:

Respondent is required to answer each and every allegation of the foregoing bill of complaint, Paragraphs FIRST to FIFTH inclusive, but not under oath; oath is hereby expressly waived.

Bebe Hall & Bebe  
Attorneys for Complainants.

Original

*Overseer County*  
*James W.*

Serve on \_\_\_\_\_  
Circuit Court of Baldwin County  
IN EQUITY

No. 385

# SUMMONS

G. A. GEARHARTY Adminis-  
trator

Complainant,

vs.

ARTHUR W. BOWMER,

Respondent.

EMERSON, HALL & BEEBE,  
Solicitor for Complainant.

Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

*Overseer County*

RECORDED  
9-381  
*Book*

## THE STATE OF ALABAMA, BALDWIN COUNTY

Received in OFFICE  
IN OFFICE

day of DEC 14 1937, 193

F. DICK BURROW, Sheriff

SHERIFF

Executed this \_\_\_\_\_ day of \_\_\_\_\_

by leaving a copy of the within Summons with \_\_\_\_\_ 193

Defendant

Sheriff

Deputy Sheriff

By \_\_\_\_\_

*Not Proved to be*

Executed this 17 day of Jan. 1938  
by handing a copy of the within to

*Carlton J. Bernard*  
F. M. SHAMBLIN, Sheriff,  
Tuscaloosa Co., Ala.

*Leonard C. Linn* D. S.

RECORDED *Over*  
9-394

Shakant, adlw, et al,

Compliment -

25.

Banner, *Represent*

355

Drawings

Filed February 11, 1935  
R. S. Dwork, Register