

969

WADE B. THOMPSON,

Plaintiff

VS

W. A. GLOVER,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

DEMURRER

Now comes the Defendant and for demurrer to the
Complaint says:

1. It does not state a cause of action.

J. B. Blalock
Attorney for Defendant

Blalock
12/1/12

W. A. GLOVER
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE
W. A. GLOVER
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

DEMURRER

RECORDED

WADE B THOMPSON,
Plaintiff

VS

W. A. GLOVER,
Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

Filed June 18 1944
R. Duck
Clk-

RECORDED

RECORDED

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RECORDED

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RECORDED

RECORDED

and before the commencement of this suit, the Defendant entered and unlawfully withholds, together with \$250.00 for the detention thereof.

Hybart & Parson
Attorneys for Plaintiff.

Plaintiff demands trial of
this cause by a Jury.

Hybart & Parson
Attorneys for Plaintiff.

1
served May 20 1946
serving copy of within Summons and
complaint on

W. A. Glover

C. E. Garrett Sheriff
By H. F. Hall Deputy Sheriff

969
RECORDED

SUMMONS AND COMPLAINT

WADE B. THOMPSON

Plaintiff,

VS.

W. A. GLOVER,

Defendant.

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

FILED: May 18, 1946.

R. H. Hall
Clerk.

LAW OFFICES
HYBART & CHASON
Bay Minette, Alabama

WADE B. THOMPSON,

Plaintiff,

VS.

W. A. GLOVER,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER 969.

Comes the Plaintiff, Wade B. Thompson, and demures to the Motion of W. A. Glover, to transfer said cause to the Equity side of the Court and to each and every paragraph thereof, separately and severally and assigns the following separate and several grounds viz.-

ONE.

That the allegations of paragraph one of the Motion are but a conclusion of the Pleader.

TWO.

That paragraph two of the Motion attempts to vary the terms of a written instrument between parties not involved in this suit.

THREE.

That paragraph two of the Motion affirmatively shows that the Defendant, W. A. Glover, conveyed the property described in this suit to J. M. Brantley on November 9, 1938, but attempts to set up an agreement to which the Plaintiff was not a party, to vary the terms of a written instrument.

FOUR.

That paragraph two of the Motion fails to allege when the parties to the Deed described therein, discovered that a mistake had been made or that the Plaintiff in this suit was informed, prior to his purchase, that such a mistake had been made.

FIVE.

That paragraph two of the Motion fails to allege who prepared the Deed executed by W.A. Glover and wife, to J. M. Brantley and fails to allege whose agent the Scrivenor was.

SIX.

That the second paragraph of the Motion fails to allege that W. A. Glover did not read the Deed described therein before he executed the same.

SEVEN

That paragraph two of the Motion affirmatively shows that W. A. Glover was negligent in executing a Deed which he alleges almost nine years later, did not correctly described the property.

EIGHT

For aught appearing from the second paragraph of the Motion, W. A. Glover knew of the contents of the Deed at the time he executed the same to J. M. Brantley.

NINE.

That paragraph three of the Motion attempts to set up an understanding between persons who are not all parties to this suit.

TEN

That paragraph three of the Motion fails to allege that Jessie M. Brantley did not read the Deed to the Plaintiff referred to in said paragraph.

ELEVEN

That paragraph three of the Motion shows that Jessie M. Brantley was negligent in executing the Deed referred to therein without reading the same, if he did not read it.

TWELVE.

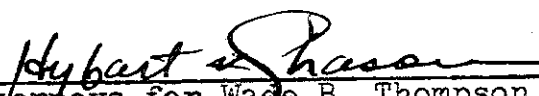
That from aught appearing in paragraph three of the Motion, Jessie M. Brantley knew the contents of the Deed that he executed.

THIRTEEN

That paragraph three of the Motion fails to allege who the Scrivenor was or whose agent he was.

FOURTEEN

That paragraph three is attempting to alter the terms of a written instrument.


Attorneys for Wade B. Thompson

RECORDED

DEMURRER TO MOTION

WADE B. THOMPSON,

Plaintiff,

VS.

W. A. GLOVER,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

NUMBER 969.

Filed ^{March 10} ~~February 27~~, 1947.

Alice J. Houch
Clerk.

LAW OFFICES
HYBART & CHASON
Bay Minette, Alabama

WADE B. THOMPSON,

Plaintiff,

VS.

W. A. GLOVER,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER 969.

MOTION TO TRANSFER CAUSE

Now comes the Defendant, W. A. Glover, by his attorney, and moves to transfer this cause to the Equity Docket of this Court and as grounds for the said motion, respectfully represents as follows:

1. The Defendant's defense in this suit depends upon the assertion of an equitable right or defense, the decision of which should dispose of this cause and which cannot be disposed of on the Law Side of this Court.

2. The Defendant, W. A. Glover, together with his wife, did, by Warranty Deed dated November 9, 1938, sell and convey to J. M. Brantley, who is also known as Jessie M. Brantley, all of the South Half of the Northeast Quarter of the Northeast Quarter of Section 28, Township 5 South, Range 2 East, in Baldwin County, Alabama, except that part thereof which lies North of a fence running from East to West across the South Half of the Northeast Quarter of the Northeast Quarter of the said Section 28, which excepted property is more particularly described as follows, to-wit:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South on the Section line 667.5 feet to the Northeast corner of the South Half of the Northeast Quarter of the Northeast Quarter of said Section 28 for a point of beginning; thence run North 89 degrees 40 minutes West 1322 feet along the North line of said South Half of Northeast Quarter of the Northeast Quarter of said Section 28 to a corner; thence run South 25.5 feet to old fence; thence run South 89 degrees 38 minutes East 522 feet along fence to a point; thence continue South 89 degrees 50 minutes East 800 feet along fence to the Section line; thence North 9 feet to the point of beginning, containing 0.66 acres, more or less, and being a strip along the North line of the South Half of the Northeast Quarter of the Northeast Quarter of Section 28, Township 5 South, Range 2 East, Baldwin County, Alabama.

After the execution and delivery of the above described deed, the said Grantee, J. M. Brantley, took possession of all of the said property described in the said deed, except the said tract containing approximately 0.66 of an acre, which lies North of the said fence. The said W. A. Glover is now and has, for many years prior to this date, been in the actual possession of the said tract of land lying North of the said fence. Due to the mutual mistake of the said Grantor, W. A. Glover, and the said Grantee, J. M. Brantley, the said deed from W. A. Glover and wife to J. M. Brantley, in its written form, does not express what was really intended by the parties thereto, in that it describes more land than that sold by W. A. Glover to J. M. Brantley.

3. Shortly before August 8, 1945, the Plaintiff, Wade B. Thompson, in order that he might have access to a public road, commenced negotiations with Jessie M. Brantley, who is also known as J. M. Brantley, in order that he might acquire from him a tract of land between the highway or road and a tract of land that the Plaintiff, Wade B. Thompson, already owned. After some negotiations, the said Jessie M. Brantley agreed to convey to the said Plaintiff a tract of land consisting of five acres in the South Half of the Northeast Quarter of the Northeast Quarter of Section 28, Township 5 South, Range 2 East in Baldwin County, Alabama, in exchange for other property that was then owned by the said Plaintiff, but with the distinct understanding that the five acres to be conveyed by Jessie M. Brantley to the said Plaintiff, Wade B. Thompson, would be located South of the fence of W. A. Glover, which fence is on the South line of the tract of land containing approximately 0.66 of an acre that is particularly described above. Due to a mutual mistake of the said Jessie M. Brantley and the said Wade B. Thompson, or due to the mistake of the said Grantor, Jessie M. Brantley, and fraud or inequitable conduct on the part of the said Wade B. Thompson, in that he did not disclose the true agreement of the said parties, the scrivener who

drafted the deed from Jessie M. Brantley to Wade B. Thompson, which is dated August 8, 1945 and which is recorded in Deed Book 95 N. S. at page 401, Baldwin County, Alabama Records, did not except the said tract of land which lies North of the said fence, which has at all times been in the possession of the said W. A. Glover, and, consequently, the said deed in its written form does not express what was really intended by the parties thereto.

4. The description in the two above described deeds should be reformed so as to truly express what was really intended by the parties thereto and to eliminate therefrom the said tract of land consisting of approximately 0.66 of an acre, which is more particularly described above, and it is, therefore, necessary that this cause be transferred to the Equity Docket for this purpose.

WHEREFORE, Defendant moves the Court to make and enter a proper order transferring this cause from the Law Side of this Court to the Equity Side of this Court where it shall be properly docketed and proceed to a final hearing.

J. B. Blackburn
Attorney for Defendant.

STATE OF ALABAMA |
BALDWIN COUNTY |

Before me, the undersigned authority, within and for said County in said State, personally appeared W. A. Glover, who, after being by me first duly and legally sworn, deposes and says: That he is the Defendant named in this suit, that he has knowledge of the facts alleged in the foregoing motion and that the same are true.

W. A. Glover

Sworn to and subscribed before me on this the 26th day of February, 1947.

J. B. Blackburn
Notary Public, State of Alabama at Large.

~~167 BALDWIN~~
MOTION TO TRANSFER CAUSE
TO EQUITY DOCKET

WADE B. THOMPSON,

Plaintiff,

VS

W. A. GLOVER,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. NUMBER 969.

Filed

2-27-41

*Adm. J. Blackburn
clerk*

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

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