

The State of Alabama, ^{Baldwin} Mobile County

Lena Darden

Complainant

^{Baldwin} Circuit Court of ~~Mobile~~ County

No. vs.

Anna Poos, William Eckman
and Frank E. Eckman Defendant

IN EQUITY.

The Complainant Lena Darden

requests the oral examination of the following named witness

on ~~Complainant's~~ behalf, viz.: James Smith, Ellen Bowton
and Lena Darden, all of Robertsdale, Ala.,
T. J. Lovell, Fairhope, Ala., W. B. Thornley,
Henry Howard and Mrs. Lizzie Wukley,
wife of Willie Wukley all of Perdido Station,
Alabama

said witnesses reside in the County of ^{Baldwin}
State of Alabama.

who reside at

T. W. Richardson, Register of the Circuit Court
of Baldwin County

is suggested as a suitable person to be appointed Commissioner to take deposition of said

witness ^w on such oral examination

Chas. H. Lee
Grenthampton

Solicitor for Complainant

No.

Deedman
Circuit Court of Mobile County

Mobile, Alabama.

IN EQUITY.

Lena Dunder

vs.

Anna Poos et al.

DEMAND FOR ORAL EXAMINATION

Filed *Nov 3* 1922

M. B. ...
Register.

*Witness Summoned for
Nov 10 - 1922*

Circuit Court of Mobile County

The State of Virginia vs. ...

THE STATE OF ALABAMA,

Madison County.

Lena Darden

Complainant

vs.

Anna Pood William Eckman & Frank Eckman
Defendants

CIRCUIT COURT, IN EQUITY.

Term, 19 *22*

To *Miss Rickaby & Pebee*

Solicitors of Record.

Please take notice that in the above stated cause pending in the Circuit Court of *Madison* County, in Equity, we will proceed at *11:30 am* o'clock on the *15th* day of *November* 19*22*, at the office of *T. W. Richerson, Register of the Circuit Court, of Madison*

Alabama, before

said T. W. Richerson Register to take the oral examination of the witnesses subpoenaed on part of the complainant namely: *Lena Darden, James Smith, Ellen Courtin, all of Patents adv. of Lawrence of St. Luke, W. P. Throckley, Henry Hayward, Mrs. Jessie W. Ryle, wife of Melvin W. Ryle, all of which parties are*

Witness, this the *3rd* day of *November* 19*22*

Chas. Peck & Gordon
Solicitors for *Complainant*

To Register of the Circuit Court, in Equity:

Please summon the witnesses named in the above notice to appear before

for an oral examination, in pursuance with the foregoing notice.

Solicitors for

No.

THE STATE OF ALABAMA,

Barbour County.

CIRCUIT COURT, IN EQUITY.

Lena Darden

Complainant.....

vs.

Anna Ross et al

Defendant.....

NOTICE OF TIME AND PLACE OF
ORAL EXAMINATION.

Issued *Nov 3* 19*22*

*We hereby accept
service of written
Notice and
waive further
notice. This
Nov 4, 1922*

*Rickard & Bube
Attorneys for
Respondents*

*Filed Nov 3/1922
D. M. McIlwain
Register*

AFTER FIVE DAYS RETURN TO
T. W. RICHESON
Clerk of the Circuit Court and
Register in Chancery
BAY MINETTE, ALABAMA

Lena Poos

VS

Anne Poos et al.

Witnesses

Henry Gullledge,

William Eckman.

DEED BOOK.

McKean
Cassidy

McKean
Cassidy

McKean
Cassidy

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

Lena Durden, Complainant.

VS.

Anna Poos et al Respondent^s

I, T.W. Richerson,

as Register and Commissioner

have called and caused to come before me William Eckman, Henry Gullledge,

witnesses named in the Requirement for Oral Examination, on the 11 day of April 1925, at the office of Register,

in Bay Minette, Alabama, and having first sworn said witnesses to speak the

truth, the whole truth, and nothing but the truth, the said Witnesses,

doth depose and say as follows:

Henry Gullledge being duly sworn says:

My name is Henry Gullledge I am the person who at one time owned a part of the lands involved in this suit and I sold to Frank Eckman the lands claimed by him.

A short while before I sold the Frank Eckman piece to him, he, Fred Brown, William Eckman, were working in the same field over on the Seever place, that was the only place that all 4 of us ever worked in the same field. While we were working there we did not have any conversation as to the title of the land involved in this suit.

Fred did not tell Frank Eckman or William Eckman in my presence that Lena Durden claimed any interest in this land.

Fred Brown never told me that Lena Durden was claiming an interest in this land nor did he ever tell Frank Eckman or William Eckman that Lena Durden claimed any interest in this land, in my presence, at this or any other time.

Cross Examination By Hon. Chas. Hall Atty for Complainant.

I deeded a part of the land involved in this suit to Frank Eckmann, and made him a full Warranty deed to same.

I am the son of Elmuth B Lowell widow of Henry Lowell deceased. and the brother of Joe and Jeff Gullledge, who at one time claimed an interest in this land.

Henry D Gullledge

William Eckman a witness for Defendant testified as follows:

My name is William Eckman, I am one of the Defendants and cross complainants in the suit of Lena Durden vs Anna Pocs, Frank Eckman and William Eckman. I am 31 years of age, Frank Eckman is over 21 years of age, and was before the commencement of this suit.

I am the owner of the lands described in my answer and cross bill, I bought this land in 1916 from Joseph Gullede, by deed dated Dec 27th, 1916, upon the purchase of this land I immediately went into possession of it and remained in possession of it up to the time of this suit and was in possession at the time of this suit was filed and have been in continuous possession of it until now.

Frank Eckman bought the piece that he claims in 1913, immediately upon his purchasing this land he went into possession of it and has been in continuous possession of it down to this day.

I paid \$200.00 for the land I am claiming, Frank Eckman paid \$340.00 for the land he is claiming. I remember that a short time before Frank purchased the land he is claiming that I Frank Eckman, Henry Gullede and Fred Brown were working in a field over on the Sever place, that was the only time that we 4 ever worked together.

~~While we were working over there Fred Brown did not tell me, that Lena Durden was claiming an interest in this land, nor did he tell Frank Eckman or Henry Gullede in my presence that Lena Durden was claiming an interest in this land,~~

Prior to the purchasing the tract that I now own neither Fred Brown nor any other person has told me or said in my presence that Lena Durden was claiming an interest in this land. Nor prior to my purchase had I ever heard from any source and in any manner that Lena Durden claimed an interest in this land.

C

William Eckman

ORAL EXAMINATION.

I, T.W. Richerson, as Register and Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witnesses and read over to them and they signed the same in the presence of myself W.C. Beebe, Atty for Defenants and Chas. Hall Atty for Complainant, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness or had proof made before me of the identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 11th day of April 1925.

T.W. Richerson (L. S.)
As Commissioner & Register.

NO. PAGE

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY.

Iana Durdan

vs. Complainant

Anna Pons et al.

Respondent.

Oral Deposition

Filed April 11th, 1925

Recorded in _____, Register.

Record

Vol. _____ Page _____

_____, Register

Deposition cause of
Lena B. Durden, Complainant.
vs
Anna Poos et al, Respondents.

Witnesses.

Martin Lowell.

✓ Fred I. Brown.

✓ Walker B. Durden

✓ D. P. Durden.

Filed March 19th, 1925.

T. W. Richerson
-----Register.

AFTER FIVE DAYS RETURN TO
T. W. RICHERSON
Clerk of the Circuit Court and
Register in Chancery
BAY MINETTE, ALABAMA

T. W. Rice
Baltimore

T. W. Rice
Baltimore

T. W. Rice
Baltimore

Lena Durdun

vs

Anna Pous

et al

ORAL DEPOSITION.

IN THE CIRCUIT COURT BALDWIN COUNTY, IN EQUITY.

Lena Durden, Complainant
vs
Anna Poos et al, Respondents.

I.T.W. Richerson, as Register and Commissioner, have
cause to come before me Martin Lowell, Fred L. Brown,
Walker B. Durden and D.P. Durden,

Witnesses named in the Requirement for Oral examination, on 19th,
day of March, 1925, at the Office of the Register of the Circuit Court
in Bay Minette, Alabama, and having first sworn said witnesses to
speak the truth, the whole truth and nothing but the truth, the
said witnesses doth depose and say as follows:

Martin Lowell a witness for Complainant who being duly sworn,
testified as follows:-

My name is Martin Lowell I live at Fairhope in Baldwin County, Ala,
and will be 78 years old in July 1925,

I have lived in Baldwin County 75 years.

I lived in the neighborhood of Robertsdale from 1862 to 1887.

I had a turpentine business in the neighborhood where my Father
and Bro Henry ~~Lowell~~ Lowell lived, and I visited them frequently.
My Mother lived at my Mothers old place a long time after my
father died,

I know Lena Durden the Plaintiff in this suit ever since she
was born, Henry Lowell my brother was Lena Durdens father.
Henry Lowell is dead, he died ~~some~~ sometime in January or February
1903, he was living on his Homestead at the time of his death.
His Homestead was in NE $\frac{1}{4}$ of Sec 31, Tp 5 S.R. 4 E, in Baldwin
County, Alabama, containing about 157 acres, the improvements and
buildings on this land at the time of his death was worth
(including the land) ~~and~~ less than \$2000.00 in value.

Henry Lowell left a widow at the time of his death, her name was
Elmuth Lowell, she is now living in the neighborhood of Robertsdale,
Her name was Elmuth Gullede before she married Henry Lowell.
She had sons named Jeff Gullede, Henry Gullede and Joseph Gullede,
they are now living in and around Robertsdale in Baldwin County, Ala.
Henry Lowell left a daughter at the time of his death named Lena,
she is now living in Robertsdale, Alabama, she is the wife of Walker
Durden, I don't remember Walker's initials.

Lena Durden was born in March 1883. I do not remember the exact
date of the month, she was born a short time after Jim Smith married
my sister Sarah Elizabeth Lowell, they were married the 1st day of
February, 1883. at the residence of my father Martin Luther Lowell,
near the place or town now known as Robertsdale Baldwin Co, Alabama.
I was at the wedding. My father Martin Luther Lowell died the 8th
of March 1885, he was buried on ~~the~~ his old home place near
Robertsdale in Baldwin County, Alabama. There is a Marble Tomstone
standing at my fathers grave, at his old home place, There is inscribed
on this tombstone the following words and figures, "Martin Luther
Lowell born October 22, 1815 died March 8th, 1885,".
Lena Durdens mother was named Lena Cooper before she married Henry
Lowell,

Cross Examination by W.C.Beebe, Attorney for Defendants.

I have talked recently with Lena Durden and W.B.Durden about the time my father Martin Luther Lowell died, They told me what time he died I dont remember I think they said it was the 8th of March, I dont remember what time they said Lena Durdens Father died but I think they said Febuary 25th, They also told me what time Lena Durden was born but I dont remember the date. I dont remember the date Henry Lowell died, I guess they told me the date of the year.

Rebuttal by Chas Hall Attorney for Complainant.

I know of my own knowledge that Henry Lowell died in Jan or Febuary, 1903, I was at his house just before he died, I know of my own knowledge that Lena Durden daughter of Henry Lowell my brother was born in March, 1883. this was just after James Smith married my sister Sarah Elizabeth Lowell,

Martin Lowell

Fred L. Brown a witness for Complainant testified as follows:

My name is Fred L. Brown, I live at Robertsdale in Baldwin County Alabama, I have lived at Robertsdale since 1910, I am 48 years of age, I know Lena Durden the Plaintiff in this suit, and have known her since 1910,

I know Frank E. Eckman, William Eckman and Anna Poos, the defendants in this suit, I am in no manner interested in the result of this suit, I know that ~~Frank Eckman and William Eckman~~ William Eckman and Frank Eckman knew that Lena Durden claimed an interest in this land before they bought the land they are claiming, I told Frank and William Eckman just before they bought the land involved in this suit that Lena Durden was claiming an interest in the land and if they bought it they would have trouble about it. Frank Eckman bought the land in the last part of 1913, I dont know the date that William Eckman bought his.

It was public talk in the neighborhood of the land in 1913 before the Eckmans bought the land that Lena Durden claimed an interest in the land. Some time in the Fall 1913, I was working with Henry Gullledge, Frank Eckman and William Eckman it was then that I told Frank Eckman and William Eckman that Lena Durden claimed an interest in the land, Frank Eckman told me that he was going to see Oscar Johnson, and if Oscar Johnson told him ~~that~~ he could get a good deed to the land he would buy it. that

Cross examination by W.C.Beebe Attorney for Defendants.

~~I did not~~ I did not tell Lena Durden about my telling Frank Eckman and William Eckman about her claim to this land. ~~Lena Durden~~ I have heard Joe Sennett, Jeff Gullledge, Dan Durden, brother of Walker Durden, Joe Cooper, Jim Smith, Lena Durden's Uncle, & (Charlie Phillips, ~~and other persons~~) speak of Lena Durden having a claim to this land, These are all I can remember saying anything about her claim.

I cant specify the particular time I heard them speak of her claim, Joe Sennett, and Jeff Gullledge spoke of her claim in 1913, before Frank Eckman bought it, the others spoke of her claim after 1913. Lena Durden spoke of her claim in my presence at different times ~~in my presence~~, and said she expected ~~to~~ get her part of that land some day, She told me somewhere about 1913 that she heard that her ~~step mother~~ Step mother had sold it to her boys, She has said in presence that Mrs. Lowell would not give her part to her and that Mrs. Lowell was claiming all of it. she told me this along about 1913,

✓ She has told me that she understood that Mrs. Lowell had had the land to herself ~~and set aside~~ /set aside to herself ~~and set aside~~ this was about 1913. she told me this. Lena Durden said that some people claimed that she had no interest in the land since it was set aside to Mrs. ~~Henry Lowell~~. Lowell,

Fred. L. Brown

who being duly sworn,
Walker B. Durden a witness for Complainant/testified as follows:

✓ My name is Walker B. Durden, I am 47 years of age, I live at Robertsdale in Baldwin County, Alabama, I have lived in the neighborhood of Robertsdale continuously since 1892. I am the husband of Lena Durden the Complainant in this suit, I knew Lena Durden's father Henry Lowell, he died February 1903, he was living on the land involved in this suit at the time of his death, Elmuth E. Lowell was his wife at the time he died, ✓ she continued to live on this land after Henry died continuously up to the Fall of 1920, and she moved off the land ~~and the land~~ involved in this suit in the Fall of 1920,

Cross examination by W. V. Beebe Attorney for Defents.

✓ I remember the time that Frank Eckman bought the land he is claiming in this suit about 1913, he bought it from Henry Gullede, Henry Gullede bought it from Jeff Gullede I know about the time he bought it, it was at least a couple of years before Frank Eckman bought it, At least before Frank Eckman bought it from Henry Gullede I knew that Henry was claiming this land, I knew that Jeff had claimed it a year or so before Henry began to claim it. There was house built on it before Henry claimed it, I don't know who lived in it, I don't know whether or not it was fenced off from the rest of the land, ✓ The way I come to find out that Jeff was claiming it he came to my wife in my presence and tried to buy my wife's interest in the land involved in this suit. This was before Henry began to claim the land that Jeff came to my wife and tried to buy her interest,

✓ About 30 or 40 days after Henry Lowell died, my wife went to Mrs. Henry Lowell for a settlement and I went along with her, Jeff spoke up for his mother and said we don't consider that you have any interest in this land and Mrs. Lowell refused to give her any part of anything.

Walker B Durden

D.P.Durden a witness for Complainant twho being duly sworn testified as follows:

✓
My names is D.P.Durden I live at Robertsdale Baldwin Co,Ala,
I was born Dec 10th,1881,I know Lena Durden the Plaintiff in this su
suit,I know Elmuth E.Lowell she is the widow of Hery Lowell
deceased, I know that Lena Durden went to Elmuth Lowell
and told her that she Lena, ~~was~~ claimed her interest ~~in the land~~
~~involved in her fathers estate and tried to~~
get a settlement,I was present at the time,and heard the
conversation,this ~~was~~ ⁱⁿ some time with/2 months after Henry Lowell
died,Lena always claimed her interest in the land involved in
this suit,

Cross examination by W.C.Bebbe, Attorney for Defendants.

Elmuth Lowell refused to ^{give} /Lena Durden any part of the estate

✓
I know that Lena Durden knew that Elmuth E Lowell, had
the proerty set aside to her Elmuth E Lowell,pretty soon after
it was set aside.I know this by having heard it talked in the
family.

D.P. Durden

I.T.W.Richerson, as Register and Commissioner, hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witness and read over to them and they signed the same in the presence of Myself, Hon. Chas Hall, Complainants Atty and W.C.Beebe, Defendants Attorney, at the time and place herein mentioned; that I have personal knowledge of the personal identity of said witnesses; that I am not of Counsel or kin to any of the parties to said cause, or in any manner interested in the result thereof.

I enclose the Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal this 19th, day of March, 1925.

I.T.W. Richerson

Register & Commissioner. (Seal)



Original

No.452.

The State of Alabama,
Baldwin County.

IN CIRCUIT COURT IN EQUITY.

Lena Durden ,Complainant.

vs

Anna Poos et al.Respondents.

ORAL DEPOSITION.

FILED MAR 19th, 1925.

D. M. McCreary
----- Register.

Witnesses.

Martin Lowell.

Fred L. Brown.

Walker B. Durden

D. P. Durden.



IN THE CIRCUIT COURT, Baldwin COUNTY, IN EQUITY.

Lena Durden Complainant.

vs.

Anna Poos et al Respondent. S

I T.W. Richerson,

as Commissioner,

have called and caused to come before me Oscar Johnson,

witness^{es} named in the Requirement for Oral Examination, on the 27th day of January,

1925, at the office of Register of the Circuit Court,

in BayMinette, Alabama, and having first sworn said witness^{es} to speak the truth, the

whole truth, and nothing but the truth, the said Witnesses,

doth depose and say as follows:

Oscar Johnson witness for the Defendants, who being duly sworn testified as follws:-My names is Oscar Johnson, I am 66 years old, I have lived in this County at Silverhill 27 years. I have been in the farming and realestate business continuously during that time. I know the lands described in the ^{original} bill of complaint . I did not know this land until Elm^uthe Lowell sold a part of it to Jeff Gullledge, I dont remember the date but I went on it a few days before and surveyed it. and made a deed from her to him/ a few days after that. At that time Elm^uthe Lowell was living on the land, the whole tract was fenced, Elm^uth E Lowell claimed that the land belonged to her, she stated at that time that the land belonged to her because she received papers from the Probated Judge stating that the land was allotted to her as a Homestead from the Estate of

Henry Lowel ~~et al~~, that she was his widow. Chas. Hall Atty. for Complainant Objects to tesminoy of witness as to the papers Elmuth E Lowell received as the pap^{er}ssis the best evidence and further objects to that part of his answer wherein he states that Elmuth E. Lowell was the widow of Henry Lowell, because Mr. Johnson does not state that of his own knowledge that he knows she was the widow of Henry Lowell. and further because Mr. Johnson's evidene is immaterial , irrelevant and has no bearing on this case.

I do not know whether Jeff Gullledge went into possession immediately after the making of the deed to this land ~~et al~~ .

I do not remember the exact date of the d~~id~~ made to Eckman but I later drew a deed from Henry Gullledge to Frank Eckman.

this deed contained the same lands deeded by Elmuth Lowell to Jeff Gullledge,

Chas. Hall Atty for Complainant objects to the answer because the deed is the best evidence.

Upon receiving the deed Frank Eckman immediately went into possession of the land, and remained in possession contiously until this suit. He farmed it each year and lived on it continuously.

Later I do not remember the exact year I went back and surveyed the balance of the land and drew a deed from Elmuth Lowell to Joseph Gullledge.

Chas. Hall Atty for Complainant objected to the answer of witness because the deed is the best evidence.

At the time I made this second survey Elmuth E Lowell was living on this land. I do not know whether Joseph Gullledge lived on this ~~land~~ land or not. 2 Or 3 years later I drew a deed from Joseph Gullledge to William Eckman conveying a part of the lands which Elmuth Lowell conveyed to Joseph Gullledge. When receiveing the deed William Eckman went into possession of the land and staid in possession until the filing of this Bill. a few Months before the filing of this suit

William Eckman got a purchaser for the land and the purchaser demanded an abstract brought down to date I sent the abstract up to Judge Hall and when I got it back a clause had been inserted showing that another was claiming the land. This was the first I had ever heard on any such claim, this clause in the abstract stated that a minor child of Henry Lowell Lena Durden was claiming an interest in the land.

Chas Hall, Atty for Plff, objected to the evidence of witness concerning the abstract because the abstract is the best evidence, and further object because said evidence is immaterial and ir relevant. on the ground that the abstract has no bearing on ~~this~~ the issue involved in this suit.

~~Joseph Gullledge~~, Joseph Gullledge about 2 years Before this suit was commenced sold the remaining part of the land that he had bought from Elmuth E Lowell to Anna Poos, who immediately went into possession and remained in possession until the commencement of this suit, she cultivated it during this time, I do not know whether Joseph Gullledge was ~~living~~ living on the land or not but he was farming it at the time he sold it. Jeff Gullledge would move off and move back he farmed it every year, I do not remember the amount that William Eckman paid for the land but I remember that he paid a cash consideration, and it was a full consideration/inserted in the deed .

Frank Eckman paid a valuable consideration.

Chas Hall Atty for Complainant objects to the answer of witness because the deed is the best evidence.

Anna Poos also paid a valuable cash consideration.

Chas Hall Atty for Co mplainantobjects to the question bacuse the deed is the best evidence.

I know Mrs. Lena Durden the Complainant in this case, and have known her for

25 years, when I first knew her she was living with her parents Mr.

and Mrs .Henry Lowell, I do not know her exact age, she ~~was reputed~~

looked to be about 20 years old at that time , I know when Henry Lowell died I knew him, I was up to his house while he was sick,

I do not know that she was reputed to be 21 years of age at the time of her fathers death, she looked to be about 18 at the time of her fathers death. I knew her father about 2 years before his death.

At the time I first knew her she looked to be about 18 or 20 years of age, I do not know whather she has lived continuously at Robetádale since that time , she has been at or near Robertsdale during that time This land is about one and one half miles or 2 miles from Robertsdale.

Up to the time that the Abstract that was referred to peviously

I had hever heard of "ena Durden making any claism to an interest

in this land, After Mr. Lowells death Mrs. Lowell continued to live on this land , the road ran right straight through in front of her house, and I would have occasion to pass this land often and would see her living there I mean Elmuth E Lowell, and there would be some cultivation around the house and a part of ~~it~~ was fenced.

~~She~~ I never discussed her claim to this land prior to ~~and~~ and the first deed I made.

Cross Examination By Chas.Hall Atty for Complainant.

I first moved to Baldwin County in the fall of 1897.

I know Jeff Gullledge , Henry Gullledge and Joesph Gullledge. I have known them since 1912. I do not know who was their mother, I don't know the family history. Frank Echman went to chicago nearly every year. He usually went to Chicago in the winter and came back in the spring. William Echman would also go. I have no personal interest in this case. I did not contract the sales but only acted as a Notary Public. I received no commissions from either party. I recommended the title to these purchases. They came to me when the title was questioned I have done nothing but to tell them to fight it out in court. I would go by this land sometimes two or three times a month and sometimes not oftener than once in two or three months. I do not know what year Elmuth E.Lowell moved off this land.

Chas. Hall Atty for Complainant moves to rule out the evidence of Oscar Johnson, on the ground that it is irrelevant and immateril and has no bearing in this cause.

Oscar Johnson

ORAL EXAMINATION.

I, _____, as _____ hereby certify that the foregoing deposition.....on Oral Examination..... taken down in writing by me in the words of the witness..... and read over to..... and..... signed the same in the presence of..... at the time and place herein mentioned; that I have personal knowledge of the personal identity of said witness..... or had proof made before me of the identity of said witness.....; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 27 day of January, 1925
W. H. Williams (L. S.)

No. 217 Page.....

The State of Alabama

Walter Gandy

IN CIRCUIT COURT, IN EQUITY.

vs. Dunder

vs. Complainant,

Anna Lee

Respondent.

ORAL DEPOSITION.

Filed Jan 27, 1925

W. H. Williams, Register.

Recorded in

Record.....

Vol. Page.....

....., Register.

IN THE CIRCUIT COURT, Baldwin COUNTY, IN EQUITY.

Lena Lunden Complainant.

vs.

Frank Echman, William Echman, Anna Posa Respondent.

I, Arnelia Hall

as Commissioner, named in the attached agreement

have called and caused to come before me Henry Gullidge, Jeff Gullidge,

Joseph Gullidge Anna Posa

witnesses named in the Requirement for Oral Examination, on the 5 day of February

1921, at the office of Roberts & Son

in Baldwin, Alabama, and having first sworn said witness is to speak the truth, the

whole truth, and nothing but the truth, the said

doth depose and say as follows:

[Empty lined area for deposition text]

Henry Gullledge being duly sworn, testifies as follows:

My name is Henry Gullege, I am the son of Elmuth E. Lowell, formerly Elmuth Gullledge; I am fifty-five years of age; I knew Henry Lowell who was my mothers husband at the time of his death. At the time of Henry Lowell's death he and my mother were living on the property involved in this suit, it was their home. After Mr. Lowells death my Mother continued to live on this land, she cultivated it and farmed it, it was fenced. In 1906 or 1907 she sold seventeen acres of it to Jeff Gullledge. In 1907 I bought this seventeen acres from Jeff Gullledge, and in 1913 I sold this seventeen acres to Frank Eckman, one of the parties to this suit. Jeff Gullledge built a house on this seventeen acres and farmed it for one year. This piece was fenced off from the other land, I don't know whether Jeff or Joe Gullledge built the fence, the fence was there when I bought it from Jeff Gullledge. I moved on this seventeen acres and lived there on it until 1913, in the house on the land when I bought it. I cultivated it every year. Upon my selling it to Frank Eckman he moved on it and set out orange trees and farmed it one or two years in person and then he rented it to Ed Crenshaw. Ed Crenshaw moved on it and farmed it for one or two years. I don't know whether or not it was farmed in 1921. The residence that was on the property at the time I sold it to Frank Eckman was still there in 1921 at the commencement of this suit, it was burned down during the year 1923, the fencing was still there at the commencement of this suit. The orange trees were there on the place in the year 1921. Frank Eckman paid me \$350.00 for this property. During the time I owned this land I cleared and put in cultivation about half of it, there was a little in cultivation at the time I bought it. The piece that remained in my mother after the deed to the seventeen acres she continued to live on and cultivate. The best of my recollection in 1913 or 1914 she sold the balance of this land to Joe Gullledge. To the best of my recollection he sold ten acres of

this twenty eight acres to William Eckman, one of the parties to this suit. After the sale of this twenty eight acres to Joe Gullede he immediately took possession of it, cultivated it, farmed it and continued to live thereon, he and his mother lived there together until he sold the ten acres to William Eckman. Upon the sale to William Eckman they fenced off the ten acres from the remaining eighteen acres, ~~xxxx~~ William Eckman farmed it one or two years after that and then Crenshaw worked it to the best of my recollection. I do not know whether it was being farmed in 1921 and I don't know ~~what~~ whether the fences were up there in 1921. Joe Gullede continued to live on the remaining eighteen acres until he sold it to Anna Poos, one of the parties to this suit. This sale was either in 1919 or 1920. Anna Poos did not move on this land but cultivated it and has cropped it every year since. I know Lena Durden, I have known her all her life. After her father's death she lived for a year or two about a mile and a half east of this land and then moved to Robertsdale. This land is about a mile and a half or mile and three quarters from Robertsdale. The public road is about 200 yards from this land, the houses, fencing and cultivation of this land can easily be seen from the public road. Up to the commencement of this suit I have never heard of Lena Durden claiming this land. I do not know how old ~~xxxx~~ Lena Durden is.

Cross examination by Chas. Hall, Attorney for
Complainant:

Lena Durden's mother before she married Henry Lowell was named Mrs. Lena Cooper. To the best of my recollection ~~Henry Lowell's mother~~ my mother, Mrs. Elmuth E. Gullede, was married to Henry Lowell sometime in 1885 or 1886, I don't remember exactly the year. My Mother moved off the land involved in this suit sometime during the year 1919 or 1920, to the best of my recollection.

Re-direct examination of Henry Gullledge:

I knew Lena Durden at the time my mother and Henry Lowell were married. I don't know exactly her age at that time but she must have been five or six years old, she was good sized girl running about. My mother always said that a day or so, I don't know exactly how long after Mr. Lowells death, Lena Durden came to my mother house and ^{claimed} ~~asked~~ an interest in the property, my mother refused to let her have it and said it all belonged to her. My mother says she told Lena Durden it all belonged to her, that is my mother. It is pretty hard to get the truth about this matter. Shortly after Henry Lowell's death she was talking it around that she claimed some interest in this property and I never heard any more of it until recently, she never said a word about it to me. What I mean about it being hard to get the truth about the matter is about the dates, I can't remember dates.

Henry D. Gullledge
Henry Gullledge

~~Jeff~~

Joe Gullledge being duly sworn by me testified as follows ;

My name is Joe Gullledge; I am fifty-two years of age; My Mother was Elmuth Gullledge, afterwards Elmuth E. Lowell, she is now the widow of Henry Lowell. I do not know the exact date Henry Lowell died, the best I can tell it was in 1906. ~~xxx~~ At the time of his death he was living on the land involved in this suit. After his death my mother had the property involved in this suit set aside to her as exempt by proceedings in the Probate Court. From the date this property was set aside to her she claimed it as hers and each year I paid the taxes for her, she lived on it, cultivated it each year, she sold a piece of it to Jeff Gullledge, I think it was ten acres, I don't know the date that she sold it. Jeff Gullledge fenced his piece off from the other land and built a house on it and lived there, he ~~xxx~~ cleared two acres of it. She later sold me the rest of the land and I think it was twenty-seven acres , I don't know the date I bought it, the records will show. I lived on the piece she sold me and cultivated and farmed it. I sold ten acres to William Eckman and he cultivated it every year thereafter, I don't know whether they cultivated it in 1921 but he got the oranges ~~afterxxx~~ off of it the year the suit was commenced. Mr. Eckman came over there during that year and gathered them and looked after the orange orchard. I cannot remember dates. William Eckman paid me \$10.00 per acre for this land. I later sold the balance of the land to Anna Poos. I don't remember the date I sold it but it was in 1913. Immediately after I sold the land to her she began to cultivate it and has cultivated it each year since. Lena Durden has never told me that she claimed any interest in this property. I don't know how old she was at the time of her father's death. I do not know how old she was at the time my Mother married her father, but she was a good big girl, I judge about six or seven years old. She was about one year old

when her grandfather, old man Martin Luther Lowell died. I don't remember the year old man Martin L. Lowell died. A few days after old man Henry Lowell was buried Lena Durden, ~~and~~ Dan Durden and Walker Durden came there and wanted to take away a mare belonging to Henry Lowell and my mother refused to let them take her.

Cross examination by Chas. Hall, Attorney for Complainant:
After Henry Lowell died my mother continued to live on the place in the house that Henry Lowell built thereon. It was 1914 I think, mabe 1918 when the house burned down, I can't swear to the date unless I looked over the papers. I don't know what year Lena Durden was born. I don't know the year my mother was married to Henry Lowell. The best I can remember, Lena Durden's mother was named Lena Cooper, she was Mike Cooper's widow and married Henry Lowell. My brother, Jeff Gullede, is about forty-four or forty-five years of age, the best of my recollection.

Joe Gullede

Jeff Gullledge being duly sworn testifies as follows:

My name is Jeff Gullledge. My mother was Elmuth E. Lowell. I know Lena Durden, I have known her as long as I know anything, I do not know her age. I am about forty-four years of age. I don't know whether she is older or younger than me, we were children together. I don't know the relative difference between our ~~ages~~^{ages}, she might have been a little older than me and I might have been a little older than she, I don't know whether she was two years, three years, four years, five years, six years or ten years older than me, or younger than me, I suppose we are about the same age. I don't remember when ~~my~~^{her} father married ~~his~~^{my} mother, but she always out weighed me a little. My mother is old and can't remember things very good. I never heard of her making any claim to this property, anymore than she came over and wanted the mare that Henry Lowell owned at the time of his death and my Mother refused to let her have it.

Cross examination by Chas. Hall, Attorney for Complainant:

I can't tell you what year my mother was married to Henry Lowell. They were married in this County, as well as I remember. They lived together as husband and wife on the land involved in this suit at the time of his death.

Jeff Gullledge

Anna Poos being duly sworn testifies as follows:

My name is Anna Poos; I am defendant and cross-complainant in the above entitled cause; I am the owner of the ^{same} lands as described in my cross-bill as claimed by me; I have owned it about four years; I bought it from Joe Gullledge; I paid \$600.00 for it. Immediately upon buying this land I went in possession of it, the first thing we did was to tear the old wreckage down and I have farmed it ever since. Up to the time I bought this land Lena Durden never told me she claimed an interest in this land. Up to the time I bought this land no one ever told me that Lena Durden claimed any interest in this land. There is no suit other than this pending to test the validity of the right, title or interest of Lena Durden ^{myself} or the other defendants, Frank Eckman and William Eckman, to the lands involved in this suit. I have lived right here close to these lands for the last past fifteen years adjoining it.

Mrs Anna Poos

ORAL EXAMINATION.

I, Cornelia Hall, as Commissioner by agreement of Counsel hereby certify that the foregoing deposition is on Oral Examination were taken down in writing by me in the words of the witness is and read over to them and they signed the same in the presence of McCabe Counsel for defendants, Chas. Hall, Counsel for Complainant and of myself at the time and place herein mentioned; that I have personal knowledge of the personal identity of said witness is or had proof made before me of the identity of said witness is; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

McCabe and Chas Hall appear as Counsel for defendants and Complainant
I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 6 day of February, 1925
Cornelia Hall (L. S.)
as Commissioner.

No. _____ Page _____

The State of Alabama
Baldwin County

IN CIRCUIT COURT, IN EQUITY.

Jenna Henderson

317
vs. Complainant,

Anna Paul
et al

Respondent.

ORAL DEPOSITION.

Filed _____, 1925

Register.

Recorded in

Record.

Vol. _____ Page _____

Register.

LENA DURDEN,
Complainant,

vs.

ANNA POOS, et al.,
Respondents.

No. 317

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

ADDITIONAL BRIEF ON BEHALF OF COMPLAINANT.

The undisputed facts in this case show that Henry Lowell died in February, 1903, and owned the property described in the complaint. That when he died he left a widow, Elmuth E. Lowell, and a minor child, Lena, who was born during the month of March, 1883, and who is the complainant in this cause. That thereafter the said Elmuth E. Lowell filed a petition in the Probate Court alleging that the property in dispute belonged to Henry Lowell, was all of the property he owned, was worth less than Two Thousand Dollars, and asked that it be set aside to her, as the widow. This procedure necessarily fell under the provision of the Code of 1896, and the law of that date is the deciding factor as to the effect of this decree.

By reference to Section 2069 of the Code of 1896, it provides that the widow and minor child have the right of possession "until" the estate is proven "insolvent", upon which judicial ascertainment the title vests absolutely in the widow and said minor child. It will be noted that there is no evidence showing that the estate was ever declared insolvent so under the above Section, when taken by itself, the widow had a right to retain possession for herself and said minor child jointly. Then

under Section 2071 of the Code of 1896, which controls in this case, and as same was construed in the case of Hodges vs. Hodges, 172 Ala., page 14, we find the following language:

"Joel Hodges died in February, 1903, leaving a widow. At his decease he owned and occupied as a homestead eighty acres of land worth less than two thousand dollars. Under and by virtue of the statute the fee to the entire homestead of eighty acres immediately vested in the widow, and so without judicial action of any kind. --- It is clear, as indicated before, that at the time the petition to set aside the homestead was filed the title in fee to the eighty acres was already in the plaintiff. Hence, so far as enhancing her right and title to the entire homestead area, the proceeding in the Probate Court was wholly vain. That court had nor could have any power to divest the title already so invested by automatic effect of the statute."

Therefore, when Henry Lowell died in February, 1903, the identical month in which Hodges, in the case above, died, leaving surviving him a widow and minor child, the lands which were the homestead, vested absolutely in said widow and said minor child, and the procedure in the Probate Court was "wholly vain".

Mr. Beebe seems to place ^{much stress} upon the fact that because Judge Hall was the Probate Judge then, that he cannot complain now as a lawyer that he did a vain and useless thing. In reply to this, had the record shown the existence of any minor we feel sure that Judge Hall would not have overlooked the minor's interest in the matter. Rather than to refer to this fact, with any degree of comfort, we would rather think that attorneys for respondents would rather forget the affidavit Mrs. Lowell made when she stated there was no minor.

Having shown that there was a minor child, at the time of the death of Henry Lowell, and that by statute the title to the property involved, vested absolutely in the widow and this com-

plainant, and that the proceeding to set apart the homestead was void, we proceed to the doctrine that the widow, remaining in possession of said homestead was ^{not} in adverse, as a ^{possessor} matter of law to the complainant, until notice was brought home to the complainant of such adverse holding. In other words, and especially in equity, the law presumes that everybody is honest and are acting honestly, and further presumes that a tenant in common, who is actually enjoying the property jointly owned by her with another is holding said property for both of them. In other words, the holding by Mrs. Lowell of the property, according to our law, was a holding by her for the benefit, and in trust for, the complainant, and until she brought home notice to the complainant that her holdings were antagonistic to complainant's right, and that this holding, with such notice, was had for a period of ten or more years, it would be inaffective as depriving complainant of her rights. There is no need to cite authorities supporting this contention because it is one of the fundamental principles of our equity juris prudence.

The evidence shows, without any contradiction, that within ten years after Mrs. Lowell had moved off of said property and within ten years after she conveyed, or attempted to convey said property to her sons, the complainant asserted her right in court, and therefore, is entitled to relief as prayed for in her complaint.

Judge Hall, our associate, has written a very able brief in this cause and has supported his every contention by an Alabama authority, and it is needless for us to do more than to ask the court to read these authorities as cited by him, and bear with us while we answer one or two contentions as made by counsel for respondents.

The first proposition raised by counsel for respondents is that the Probate Court had jurisdiction to determine whether or not Henry Lowell left a minor, and if this ascertainment was binding and determinative of that question. We think that we have demonstrated that such was not the case, and in fact counsel for respondents admit that the authorities cited by them, and which they claim proves their assertion, were based upon the Code of 1907, an entirely different Act from the one in question. Then too, we have taken pains to read these authorities and the one which they rely upon strongest shows that the issue whether or not there was a minor was actually litigated, evidence introduced to support both sides of the question, and that upon this state of affairs there was a judicial ascertainment and an appeal from the decree of the Probate Court was the appropriate remedy.

We deem it unnecessary to do more than to quote from the case of Hogan vs. Scott, 186 Ala., page 319:

"The petition, under this Section, may be filed either by or on behalf of the widow and minor child, or children, or either, as the case may be and should set forth the facts authorizing such exemption, describing the real estate out of which the exemption is claimed and stating its value. --- Other statutory provisions as to the proceedings need not be referred to other than to state that a reading of these sections show that the purpose thereof is to fix the status of the property as exempt as a homestead and not to

vest title. Upon the property being so set apart, these statutes (Section 2071 Code) itself intervenes, and, without the aid of any court to that effect, vest the exempt property in the widow and minor child or children, where the same constitute all of the real estate owned by the decedent at the time of his death."

The next proposition which respondents raise is that complainant was guilty of laches, and the next proposition is that respondents had secured title by adverse possession. Answering these propositions, we can only state that as to asserting a legal claim based upon a legal title to lands the only way that laches can be applied would be by ten years adverse possession of said land as prescribed and defined by the Code of Alabama. There is no evidence whatsoever to show that this complainant has practiced fraud or deception, or that she has stood idly by, and suffered a wrong to be done, and which could be charged to her. Everybody is presumed to know the law and certainly would this apply to Mrs. Lowell, the widow, and to her sons to whom she conveyed this property, continuing to live upon same, the deeds not being recorded for many years after their alleged execution.

We respectfully submit that the evidence conclusively shows that Lena Durden, as a minor, was vested with the legal title to an undivided one-half interest to the lands in question upon the death of her father. That she still owns that undivided one-half interest and that the respondents have produced neither evidence or law to show that she has forfeited her right, or that she has perpetrated any fraud which would tinge her conduct with the idea of deception upon the present claimants to the land. She indulged her step-mother by permitting her to enjoy the full possession and income from said property, notifying her that she made claim to a half interest and she made no move until her rights demanded it.

We, therefore, respectfully submit that complainant
is entitled to the relief prayed for.

Respectfully submitted,

Gordon & Sneyton
SOLICITORS FOR COMPLAINANT.

BAY MINETTE, ALA.,

19

Hon. J. M. Richardson

July 7

IN ACCOUNT WITH

G. W. HUMPHRIES
JUDGE OF PROBATE
BALDWIN COUNTY

Please Return Bill With Remittance

Privilege Tax

Rec. Fee

Total

To *Deed*
Rec. Mort. from

Anna Ross et al to Lena Sanders

1.25 -

Paid 7/6/29
G. W. Humphries Judge
by S. K. ...

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 Frank E Eckman,

of Batavia, Illinois 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

Lena Durden,

against said

Anna Poos, William Eckman and Frank E Eckman,

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 29th, day of Sept.,

1921.

T. W. Richerson

Register.

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

9 Original

Serve on _____

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

Lena Darden

vs.

*Lena Ross,
William Eckman
& Frank Eckman*

*Wm. Hall,
Gordon & Edinger*

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____

day of _____ 192 _____

Sheriff

Executed this _____ day of

_____ 192 _____

by leaving a copy of the within summons with

Defendant

Sheriff

By _____

Deputy Sheriff

*Sept 29th 1921
Copy of bill &
Copy of summons
sent by Reg. mail to
Frank Eckman
64 Church St
Batavia, Ill*

*J. W. Williams
Register*

LENA DURDEN,
Complainant.

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

) IN EQUITY.
)

-VS-

ANNA POOS, WILLIAM ECKMAN,
and FRANK ECKMAN,
Respondents.

Come the defendants and file this request for oral examination of witnesses in their behalf as follows: Joseph W. Gullledge, John Middleton, Charles Eckman, William Eckman, Frank Eckman, Anna Poos, Wyley W. Gullledge, Henry Gullledge, Jeff Gullledge, Etta Gullledge, Ed Crenshaw.

This April 13th., 1922.

Richardly & Beebe
Solicitor for Defendants.

Defendants suggest the Honorable T. W. Richerson, Register, a suitable person as commissioner to take the depositions of the foregoing witnesses.

Richardly & Beebe
Solicitor for Defendants.

Judge Lugh,

Mr. Richman is sending
your Probate Judges' Certif-
icate of payment of taxes
on lands in suit of
Durdan vs Pro, et al.

Our note of submission
and Registers note of
evidence note "agreement
of counsel as to payment
of taxes." We did not get
agreement so are sending
Probate Judges' Certif-
icate in lieu of agree-
ment. This should
be noted on Registers
note of evidence and
our own note of sub-
mission

W C Beebe

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 Anna Poos, William Eckman,

of Baldwin 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

Lena Durden,

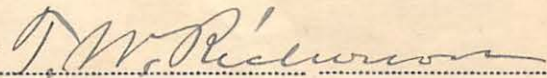
against said

Anna Poos, William Eckman and Frank E Eckman,

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 28th day of September,

1921



Register.

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

1st Original

Serve on _____

Circuit Court of Baldwin County
In Equity

No. 317.

SUMMONS

Lena Durden.

vs.

Anna Poos, William Eckman,
et al.

Chas. Hall, Gordon & Edgington.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

*Serve copy on Anna Poos
& copy on William Eckman
rec'd on 11/25/21*

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this 28th.
day of September 1921.

Sheriff

Executed this 13th day of
Oct. 1921.

by leaving a copy of the within summons with

*Anna Poos: see J
on Nov. 25th 1921 I served
copy on William Eckman
110 R Street*

Sheriff

By _____
Deputy Sheriff

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 Lena Durden,

of Baldwin 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 Cross,} a Bill of Complaint lately exhibited by.....

William Eckman,

against said

Lena Durden,

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 9th, day of January,

1922......191.....

T. W. Richerson

Register.

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

Serve on.....

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

No.....

SUMMONS.

William Eckman

vs.

Lena Durden,

Rickarby and Bebee,

Oppe
Solicitor for Complainant.

Recorded in Vol..... Page.....

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Received in office this *9th*.....

day of *January* 19*22*

W. R. Stuart

Sheriff.

Executed this *9th*..... day of

Jan 19*22*

by leaving a copy of the within Summons with

Chas. Hall one of the.....

Attorneys for Lena Durden

~~Defendant~~

W. R. Stuart

Sheriff

By *P. O. Wiggins*

Deputy Sheriff.

William Eckman

Lena Durden

Rickarby and Bebee

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 Lena Durden,

of Baldwin, 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 ^{Cross,} a Bill of Complaint lately exhibited by.....

Frank Eckman,

against said

Lena Durden,

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 9th, day of January,

1922. 191.....

T. W. Richerson

Register.

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

Original

2nd

Serve on.....

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

Received in office this 9th

No.....

day of January 1922
W. R. Stuart
by B. O. Wiggins
DS Sheriff

SUMMONS.

Executed this 9th day of

Frank Eckman,

January 1922
by leaving a copy of the within Summons with
Chas. Hall one of the
Attorneys for Lena Durden
~~Defendant~~

vs.

W. R. Stuart
Sheriff

Lena Durden,

By B. O. Wiggins
Deputy Sheriff.

Rickaby & Bebee,

Cross,
Solicitor for Complainant.

Recorded in Vol..... Page.....

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 Lena Durden,

of Baldwin 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 cross} a Bill of Complaint lately exhibited by.....

Anna Poos,

against said Lena Durden,

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 9th, day of January,

1922, ---

T. W. Richerson
Register.

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

Original

Serve on.....

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

No.....

SUMMONS.

Anna Poos

vs.

Lena Durden.

Rickarby and Beebe.

Solicitor for Complainant.

Recorded in Vol..... Page.....

Send copy to Char Hall

row

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Received in office this *9th*

day of *January* 19*22*

B. O'Leary
Sheriff

Executed this *9th* day of

January 19*22*

by leaving a copy of the within Summons with

Chas. Hall One of
the Attorneys for Lena Durden
Defendant

W. H. Street
Sheriff

By *B. O'Leary*
Deputy Sheriff.

LENA DURDEN,)	
Complainant,)	Circuit Court,
)	
vs.)	Baldwin County, Alabama
)	
ANNA POOS, et al,)	
Respondents)	

It is agreed between the parties to this cause that the tax records of Baldwin County, Alabama, show as follows:

1908, Assessment Book 1, page 303, shows all the lands claimed by William Eckman and Anna Poos involved in this suit assessed to Elmuth E. Lowell and assessment marked paid.

1909, Assessment Book 1, page 235, shows the lands involved in this suit, claimed by William Eckman and Anna Poos assessed to Elmuth E. Lowell and assessment marked paid. Same book, page 301, shows the land claimed by Frank Echman assessed to Henry Gullledge; assessment marked paid.

1910, Assessment Book 1, page 310, shows land claimed by Frank Echman assessed to Henry Gullledge; assessment marked paid. Same book, page 34, shows lands claimed by Henry Echman and Anna Poos assessed to Elmuth E. Lowell; assessment marked paid.

1911, Assessment Book 1, page 221, shows the lands claimed by Frank Echman assessed to Henry Gullledge; assessment marked paid. Same book, page 226, shows the land claimed by William Echman and Anna Poos assessed to Elmuth E. Lowell; assessment marked paid.

1912, Assessment Book 1, page 252, shows land claimed by Anna Poos and William Echman assessed to Elmuth E. Lowell; assessment marked paid. Same book page 229, shows land claimed by Frank Echman assessed to Henry Gullledge; assessment marked paid.

1913, Assessment Book 1, page 258, shows land claimed by William Echman and Anna Poos assessed to Elmuth E. Lowell; assessment marked paid. Same book, page 236, shows land claimed by Frank Echman assessed to Henry Gullledge; assessment marked paid.

1914, Assessment Book 1, page 244, shows land claimed by Frank Echman assessed to Frank Echman; assessment marked paid. Same book, page 217, shows land claimed by Anna Poos and William Echman assessed to J. W. Gullledge; assessment marked paid.

1915, Assessment Book 1, page 216, shows the land claimed by Frank Echman assessed to Frank Echman; assessment marked paid. Same book, page 220, shows land claimed by Anna Poos and William Echman assessed to J. W. Gullledge; assessment marked paid.

1916, Assessment Book 1, page 22, shows lands claimed by Anna Poos and William Eckman assessed to J. W. Gullledge; assessment marked paid. Same book, page 233, shows lands claimed by Frank Eckman assessed to Frank Echman; assessment marked paid.

1917, Assessment Book 1, page 228, shows lands claimed by Frank Echman assessed to Frank Echman; assessment marked paid. Same book, page 233, shows lands claimed by Anna Poos and William Echman assessed to J. W. Gullledge; assessment marked paid.

1918, Assessment Book 1, page 232, shows land claimed by Frank Echman assessed to Frank Echman; assessment marked paid. Same book, page 233, shows lands claimed by William Echman assessed to William Echman; assessment marked paid. Same book, page 237, shows lands claimed by Anna Poos assessed to Joseph Gullledge; assessment marked paid.

1919, Assessment Book 1, page 235, shows lands claimed by Anna Poos assessed to Joseph Gullledge; assessment marked paid. Same book, page 230, shows lands claimed by Frank Echman assessed to Frank Echman; assessment marked paid.

Witness our hands this the _____ day of _____, 1926

Attorneys for Complainant

Attorneys for Respondents

DEPOSITIONS.

Lena Turden,

Vs. # 317

Anna Poos, et al.,

Witnesses: Henry Gullledge,
Jeff Gullledge, Joe Gullledge and
Anna Poos.

Filed February 6th 1925 -
T. W. Richmond
Register

LENA DURDEN,)	
)	
Complainant,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY,
)	
ANNA POOS, ET AL.,)	ALABAMA.
)	
Respondents.)	In Equity.
)	

The Complainant seeks a sale for division of the land described in the Bill, she claiming to be a joint owner with the several respondents. Her claim is based on inheritance from her father, who died in February, 1903, the land being his homestead of less value than Two Thousand Dollars, and of less area than 160 acres, the same being all the real estate owned by decedent.

Complainant's father, Henry Lowell, left surviving him a widow, Elmouth E. Lowell, and one minor child, the complainant, both entitled to share jointly and equally in this homestead. At the time of her father's death Complainant was over eighteen years of age, and a married woman, whereby her disabilities of non age were removed.

Under these facts, which appear to be sufficiently established by the evidence, and under the law as it stood at the date of the death of the father and husband, Complainant and her step mother, the widow, took a fee simple title to the homestead as tenants in common. Their title vested by operation of law eo instante the death of the father and husband, so that the Probate proceedings setting off the homestead to the widow alone in 1904 were vain and ineffective, having no operation on the title which had already vested. These probate proceedings and the decree thereunder could not operate to bar complainant from successfully asserting her rights under the title accruing to her at the death of her father in February, 1903. She was on said date, or at least shortly after, sui juris.

The respondents each claim through mesne conveyances from the widow, Elmouth E. Lowell. The respondents, and those through whom they claim title, have been in the possession of the land claiming to own the same since the death of Henry Lowell in February, 1903, up to the date of the filing of the bill in September, 1921--eighteen years and six months--the complainant, in the meantime, residing within a mile and one-half of the premises.

It is now unnecessary to decide whether or not the decree of the Probate Court above referred to was a fraud upon Complainant, or whether by timely application by Complainant the said decree would have been vacated. The Respondent's defense to the action is not based solely on the decree, but their answers set up the statute of limitations and adverse possession. While possession as between tenants in common does not become adverse until the character of such adverse holding is brought home to the co-tenant out of possession, it does assume such character when the tenant in possession unequivocally asserts exclusive ownership and denies his co-tenant's possession, or any share in the rents and profits. Under the testimony of complainant and her own witnesses this is exactly the attitude assumed by the step mother, Elmouth E. Lowell, from the date of Henry Lowell's death.

The Complainant testifies as follows:

"Soon after my father's death my step mother told me that she thought I did not have anything to do with the land. I was on the place when she told me that what was there belonged to her. She made this remark to me within thirty days after my father's death."

Complainant's husband, Walker B. Durden, testifies as follows:

"About thirty or forty days after Henry Lowell died my wife went to Mrs. Henry Lowell for a settlement, and I went along with her. Jeff spoke up for his mother and said: "We

don't consider that you have any interest in the land," and Mrs. Lowell refused to give her anything".

D. P. Durden, a brother-in-law of the Complainant, testifies to the same effect, and adds: "I know that Lence Durden knew that Elmuth E. Lowell had the property set aside to her, Elmuth E. Lowell, pretty soon after it was set aside. I know this by having heard it talked in the family."

Fred L. Brown, a witness for the Complainant, testifies to a similar state of facts. He says that in 1913 Complainant told him of the Probate decree and that her step mother refused to recognize her as a joint owner.

The Complainant, as well as the named witnesses, most of whom are closely related, deserve credit for so frankly stating facts which they must have known would prove damaging to her cause. Under the facts as testified to by all of these witnesses, it became the duty of complainant to commence action as soon as appraised of the attitude assumed by Mrs. Lowell. If she refrained from doing this out of consideration of her father's widow, she has only her own generous motives to blame for the consequent loss due to the maturing of the statute of limitations.

There is still another proposition of law involved, and which effectually militates against Complainant's right to relief at this late date, as against Jeff Gullede and Henry Gullede, or their grantees. It appears that more than ten years before the suit was commenced, Elmuth E. Lowell conveyed this land to her said son, by ~~x~~ conveyances purporting to convey the entire title as distinguished from an undivided ^{interest} ~~title~~ therein; ~~that~~ her grantees have been in exclusive, adverse possession, asserting ownership; that three of these deeds were executed as far back as 1907, and one of them placed on the public records in 1909. Such a conveyance by a co-tenant in possession, followed by an entry by the grantee into actual possession, open

and exclusive, and under claim of ownership in severalty, amounted to a disseisin of complainant, and ripened into a good title after ten years possession. This principle of law is not applicable to the two deeds from Elmouth E. Lowell to Joseph Gullledge in 1913, because the ten years had not run from 1913 to the date the bill ~~had been~~^{was} filed. However, as above stated, the statute of limitations began to run against complainant in 1904 when her co-tenant denied her interest in the land, and refused to acknowledge her rights as a co-tenant. It follows that Complainant cannot now recover.

The Register will enroll the following decree:

DECREE.

This cause coming on to be heard is submitted for final decree upon the pleadings and proff as noted by the Register, and from a consideration thereof, the Court is of the opinion that the Complainant is not entitled to the relief prayed in her bill of complaint; but that the several cross-complainants are entitled to have their title to their respective tracts of land quieted as to this Complainant.

It is therefore, ordered, adjudged and decreed by the Court that Complainant/^{Lena Durden,} is not entitled to relief in this cause, and that her bill of complaint be dismissed.

It is further ordered, adjudged and decreed by the Court that the cross-complainants, Anna Poos, William Eckman and Frank Eckman are entitled to the relief prayed in their respective cross bills; and that the complainant herein has no right, title or interest in, or incumbrance upon, the tracts of land described in said several cross bills, or any part thereof.

The Register will file a certified copy of this decree in the Probate Office of Baldwin County, Alabama, for record, within thirty days from this date.

Done at Chambers in Monroeville, Alabama, on this the 15th. day of February, 1929.

J. W. Nare
Judge

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DEPOSITION IN CAUSE OF

Lena Durden. Complainant.

VS

Anna Poos, William Eckman,
and Frank E Eckman, Defendants.

WITNESSES.

Mrs. Lizzie Weekley.

James Smith.

Ellen Brewton.

-√ Lena Durden.

T. J. Lowell.

Willie Weekley

W. B. Thomley.

Filed Nov 17th, 1922.

T. W. Richerson
----- Register.

*Opened by Order
of Court*

*T. W. Richerson
Nov 27/1923 Register*

The State of Alabama, Baldwin County.

CIRCUIT COURT, IN EQUITY.

Lena Durden, Complainant

vs.

Anna Poos, William Eckman, and Frank E Eckman, Defendant s

Mrs Lizzie Weekley,

Deposition of James Smith, Ellen Brewton, Lena Durden, T. J. Lowell, Willie Weekley, W. B. Thomley, Demand for Oral Examination,

By virtue of the appointment to take the Deposition, indorsed in writing, on the Interrogatories by the

Solicitor filing the same, in the above stated cause pending in said Court of said County, I,

T. W. Richerson, Register of said Court of said County, have called and

caused to come before me Mrs. Lizzie Weekley, James Smith, Ellen Brewton,

Lena Durden, T. J. Lowell, Willie Weekley, W. B. Thomley,

Oral Demand

the witnesses named in the Interrogatories, and having first sworn the said witnesses to speak the truth, the whole truth and nothing but the truth, the said witness deposes and says as follows:

W. B. Thomley witness for Complainant testified as follows:

My name is William B. Thomley I live at Perdido Station Alabama,

I am 67 years old. I knew Henry Lowell during his lifetime while

he was living in Baldwin County, near what is known as Robertsdale

now. When Henry Lowell died he left 2 children, Lena Durden

and Lizzie Weekley, the best of my recollection Henry Lowell died

in February, 1903, He left a widow whose name is Elmuth Lowell.

Lizzie Weekley was the oldest of the 2 children. I knew Lena

Durden's mother during her life time her name was Lena and she

was the wife of Henry Lowell. The last time I saw Mrs. Lena Lowell

alive was in December 1882 and she was then pregnant.

I came back to Henry Lowell's Home after that during March

1883, I found Mr. Henry Lowell there, I found Mrs. Lena Lowells 2

boys by her first husband there. I found Lena Durden who was then

a little baby at Mr. Henry Lowells mothers, Henry Lowell told me that

Lena was his baby and said that she was born on the 18th of March

1883.

Cross By Mr.W.C.Beebe Atty for Respondent.

They told me that Mrs. Lowell had been dead 2 days.

this was in 1883. I base my recollection that it was 1883 by my moving away from there to Perdido Station .I moved from Robertsdale to Perdido Station in December 1882.I did not own any ~~Real~~ property at Robertsdale prior to the time of moving to Perdido Stattion.

I base my reccollection that I moved to Perdido Station ln 1882 upon my knowing that I moved there at that time. I have no written data showing ~~what~~ what time I moved there. I was living at Peraido Station when Mr. Henry Lowell died,I do not remember who told me of Mr Lowellls death or how I found it out.

I visited Mr Lowell a few days before he died. I am sure he died in Febuary 1903, I have no data or memoranda showing when he died and I base my reccollection upon my close connection with the family.I am positive he died in 1903.

W. B. Thomsby

I, T.W. Richerson,, the said Register, hereby certify that the foregoing testimony was taken down in writing by myself

in the words of the witness, and were read over to them, that they assented, swore to and subscribed the same in my presence, the 17th day of November, 1922, ~~191-~~, at

Bay Minette,, Alabama; that I have personal knowledge of, or had proof made before me of the identity of the witness, and that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

And I enclose the deposition, ~~together with the Interrogatories, Direct and Cross,~~ and the documents which ~~were deposed to,~~ in an envelope properly endorsed and sealed and placed the same on file in my office.

Given under my hand and seal this the 17th day of November 1922, ~~191--~~

T.W. Richerson, Register.

WITNESS FEES.

I hereby certify that the following named witnesses are entitled to the amounts stated below:

<u>Mrs Lizzie Mackey</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>Janna Smith</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>Ellen Newton</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>Lena Dunder</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>J. Howell</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>Micie Mackey</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
<u>W.B. Howell</u>	days' attendance at \$1.50 per day	\$ <u>150</u>
.....	days' attendance at \$1.50 per day	\$
.....	days' attendance at \$1.50 per day	\$
.....	days' attendance at \$1.50 per day	\$
.....	days' attendance at \$1.50 per day	\$
.....	days' attendance at \$1.50 per day	\$

REGISTER'S FEES.

..... days at \$1.50 per day \$
..... words at 20 cents per hundred

The State of Alabama,

Baldwin COUNTY.

IN CIRCUIT COURT, IN EQUITY.

Lena Darden

vs. Complainant,

Anna Pooz et al

Defendant. S

Oral Examination
Deposition Taken Before Register on Interrogatories.

Deposition of Witnesses

for Complainant

Filed 17th day of Nov, 1922

Published by order of the Court

_____, 191____

T. W. Richerson
Register.

James M Smith witness for Complainant testified as follows:-

My name is James M Smith and I live at Robertsdale and I was born in 1862. I knew Mr Henry Lowell during his life time. I know Lena Durden the Complainant in this ~~cause~~, and ~~her~~ name was Lena Lowell, before ~~she~~ married, her father was Henry Lowell and her mother was Lena Lowell,

I do not remember the date when Lena Durden was born but she was born in 1883, I was married the 1st day of Febuary 1883 and she was born soon after I was married, I married Henry Lowell's sister.

I am sure that Lena Lowell was the mother of Lena Durden, and I am sure that Lena Durden was born after Febuary 1st, 1883. Mr. Henry Lowell was living at the time of his death on the very same land that Elmuth E Lowell lived on after his death, Elmuth E Lowell being the widow of Henry Lowell, I am not sure when Henry Lowell died, Henry Lowell at the time of his death left 2 children one of them was Lena Durden and the other is Lizzie Weekley, Lizzie Weekley being the oldest, I dont know how much older Lizzie is than Lena, Mrs. Elmuth E Lowell moved off the property on which she and Henry Lowell were living at the time of his death some time during 1920.

Cross By Hon. W.C.Beebe Atty for Respondents.

Lena Durden was born a month or month and half or perhaps 2 months after my marriage.

li
x
James M Smith
mark

William
A. Arthur

Mrs. Ellen Brewton a witness for Complainant testified as follows:-

My name is Ellen Brewton and I live at Robertsdale I know Lena Durden and I am her Aunt, I knew Henry Lowell and he was my brother, Lena Durdens Mother was named Lena Lowell, who was the wife of Henry Lowell, Lena Durden was born on the 18th of March I dont know exactly what year, Lena Durden was born after my sister married Jim Smith, Mr Smith being the same man that testified awhile ago, Henry Lowell and His wife were living on the same land that he was living on when he died. He died on February 25th, and I think it was in 1903 but I dont know. Henry Lowell was living on the same land when he died that is in dispute in this case and that was the only land he owned to the best of my knowledge.

Mrs. Lena Lowell only left 2 children by Mr. Henry Lowell when she died their names are Lizzie Weekley and Lena Durden the complainant in this cause Lizzie Weekley is about 2 years older than Lena Durden. Mrs. Lena Lowell lived about six days after Lena Durdens birth.

Cross By Hon. W.C. Beebe Atty for Respondents:-

No one has told me the date of Mr. Henry Lowells death.

Mrs Ellen Brewton

Mrs. Lizzie Weekley witness for Complainant testified as follows:-
My name is Lizzie Weekley and I live at Perdido Station,
I am the daughter of Lena Lowell and Henry Lowell, and am
the sister of Lena Durden, I am 2 years older than Lena Durden,
I was born in 1882, I have no Bible record showing the date of my
birth and I got my information from my father and Grand Parents.
My father died on the 25th. day of February 1903, he was living on
the land described in the complaint and about which this controversy
is at the time of his death and he owned the said land .
After his death his widow Elmuth E Lowell continued to live on the
place ,but I dont know when she moved off, I dont know when my
father married Elmuth E Lowell but I know that it was after my mother
died.

Lizzie Weekley

Lena Durden witness for Complainant testified as follows:

My name is Lena Durden and I live at Robertsdale, My Father was named Henry Lowell and My mother was named Lena Lowell, they were husband and wife, my Grandmother raised me and she is dead, she told me that I was born on the 18th day of March 1883, My father Henry Lowell was living on the land described at the time of his death and he was the owner of the said land. He did not own any other land at that time the land is located in Baldwin County, Alabama, I am the Complainant in this cause, and at the time of filing the bill in this cause I was over 21 years of age and a bona-fide resident of Baldwin County Alabama, My father, Henry Lowell died on the 25th day of February 1903, He left 2 children Lizzie Weekley and myself. Lizzie Weekley being the oldest, and being a little over 2 years older than I am, When my father Henry Lowell died my Step Mother Elmuth E Lowell and her son continued to live on this land and continued to live on this land until some time in 1920 when she moved off. This son was named Joe Gullett and was not my father's son My father Henry Lowell was living on the land described in the Bill of Complaint at the time of his death as his Homestead, I own an interest in this land as heir of my father Henry Lowell, I did not receive any notice of any kind out of any Court in Baldwin County relative to any proceedings as to the land described in the Complaint after the death of my father. I never did receive any notice that my Step Mother had filed a petition in the Probate of Baldwin County to have this land set aside to her as exempt. The respondents all claim an interest in this land and are joint owners thereof with me.

Cross by Hon. W. C. Beebe Atty for Respondents:

I was living at Robertsdale at the time of my father's death, I was living about a mile and a half from my father's home. I do not know just how long after I lived there, ever since my father's death I have lived in this County at or near Robertsdale.

While Elmuth E Lowell was living on the property in controversy,
I visited her once or twice a year, I never asked her for any part
✓ of the profits or rents on this place. I thought all the while that
I had an interest in this place. I heard of her selling the place
within the past 2 years.. Joe and Jeff Gullledge were living
on the place with my father at the time of his death.

Jeff moved off after his marriage but Joe continued to live there.

I never discussed the case with a Lawyer until about one year ago.

✓ I was married at the time of my fathers death to Walker Durden.

He is my second husband. My first husband was Leonard Evans,

I was married In Mobile County the first time I do not remember the
date. I married Walker Durden the 25th day of May, 1902.

Re direct.

✓ Soon after ~~the~~ my fathers death my Step mother told me
that she thought that I did not have anything to ^{do} with the land.
she never did say any more to me about it.

From the time my father died until Elmuth E Lowell moved off the
land she did ^{not} rent any of it to anybody, during that time she never
said a word to me about coming into court and have it set aside
as exempt, she never did tell me not to come on the property.
~~_____~~

✓ Re Cross. I was at the place when she told me that what was there
belonged to her.

✓ Re direct. She made this remark to me within 30 days after my fathers
death.

Lena Durden

T. J. Lowell a witness for Complainant testified as follows:

I live at Fairhope and am 59 years old, I was a brother of Henry Lowell who is dead, he died in February but I don't remember the year, I know Lena Durden the Complainant in this cause, and she is my niece she was born in March 1883, her mother was named Lena Lowell and her father was named Henry Lowell, Lena Lowell lived just a few days after the birth of her daughter. Henry Lowell and Lena Lowell had 2 children Lizzie Weekley and Lena Durden, Lizzie Weekley being about 2 years older than Lena Durden. Henry Lowell was living on his place near Robertsdale when he died This being the same place which Elmuth E Lowell, his widow continued to live on after his death,.

Cross By Hon W. C. Beebe Atty for Respondents:-

Henry Lowell was living at Robertsdale when he married Lena I do not know the time of his death, I don't know where Lena Durden was living at the time of her father's death, I have no Bible or memoranda showing the dates of Lena's birth, when a man falls in love with his wife he never forgets that, and when Jim Smith married on February 1st 1883 I fell in love with my wife and Lena Durden was born in March right afterward. The reason that I know this, that I was married in 1884, which I have a record of and my oldest boy was born in 1885,

T. J. Lowell

AFTER FIVE DAYS RETURN TO
T. W. RICHERSON
Clerk of the Circuit Court and
Register in Chancery
BAY MINETTE, ALABAMA

Deponem.

Henry Dunbar

P.S.

Anna Lee
SAS

Wm

George Johnson

Recd Jan 27/1825 -
T. W. Richerson
Register

State of Alabama,) ss.
) :
Baldwin County.))

At a regular term of the Honorable the Court of Probate, held in and for said county, in said State, at the Court House thereof, in the Town of Bay Minette, on the Second Monday in June, in the year of our Lord, One Thousand Nine Hundred and Four, it being the 13th day of June, the following proceedings were had, to-wit:

In re Application of Elmuth E Lowell) :
to set aside Homestead Exemption.) July 5th, 1904.

This day came Elmuth E. Lowell and filed her petition in writing and under oath alleging that she is the widow of Henry Lowell, who is deceased and who left no minor children, and further alleging that the only real property left by decedent was the homestead occupied by decedent and the said petitioner at the time of his death; said petitioner praying that said Homestead may be set aside to her as exempt from administration.

It is therefore ordered that M. C. Cooper and E. E. Stanton who are disinterested householders of this County, be and they are hereby appointed to make a full and complete inventory and appraisement of the real and personal property of the said decedent and stating the value and describing the property in each item thereof; that said Commissioners, if such property does not exceed in amount or value the exemptions allowed in such property, shall set apart the same to said widow as exempt from administration, and said Commissioners shall within ten days from such time return to this Court their inventory and appraisement with a report of their action in the premises.

Chas. Hall,

Judge of Probate.

And the Court adjourned Sine Die, Saturday, July 9th, 1904.

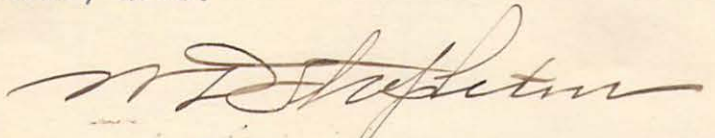
Chas. Hall,

Judge of Probate.

The State of Alabama, \emptyset
Baldwin County. \emptyset

I, W. L. Stapleton, Judge of Probate in and for said State and County, hereby certify that the above and foregoing are true copies of the proceedings of opening Probate Court of Baldwin County, Alabama; Order Appointing Commissioners, and Adjournment of the Probate Court of Baldwin County, Alabama, as the same appear of record in Minutes of the Probate Court "F" at pages 110, 116 & 117 and 117, respectively, now on file in the office of Judge of Probate, Baldwin County, Alabama.

Witness my hand and the seal of the Probate Court, Baldwin Co., Ala., this 11th day of September A.D., 1925.


Judge of Probate.



This Indenture, Made the 24th day of March 1913, between Elmouth E. Lowell, a widow, of the first part, and Joseph Gullledge of the second part; Witnesseth that the party of the first part, in consideration of One (\$1.00) and other valuable considerations, hereby acknowledged to have been paid the party of the first part by the party of the second part, Does grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, all that real property in Baldwin County, State of Alabama, described as follows:

Beginning at the North East corner (N.E.corn,) of Section Thirty-One (31) Township Five (5) South, Range Four (4) East, running ten (10) chains west and ten and fifty hundredths (10-50/100) chains south for a starting point, thence South nine and fifty hundredths (9-50/100) chains, thence West five (5) chains, thence south eleven and seven hundredths (11-7/100) chains, thence west eleven and twenty-three hundredths (11-23/100) chains, thence north twenty and fifty seven hundredths (20-57/100) chains, thence east sixteen and twenty three hundredths (16-23/100) chains to the starting point, all in the North East quarter (N.E.¼) Section Thirty One (31) Township Five (5) South, Range Four (4) East, in Baldwin County, containing twenty eight (28) Acres.

The above described land was deeded in favor of Elmouth E. Lowell, widow of Henry Lowell, deceased, by commissioner appointed the 6th day of July, 1904 by the Probate Judge of Baldwin County, as provided for by the Code of Alabama 1896 and executed the 29th day of July 1904, Recorded in Record F Probate Court, Page No.99-100.

Together with all rights and appurtenances to said described premises in anywise belonging:

To have and to hold the same forever.

And Elmouth E. Lowell, for herself and her heirs, the said described premises and appurtenances will forever Warrant and Defend unto the said party of the second part his heirs and assigns, against the lawful claims of all persons whatsoever.

In witness whereof, The said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of
A. L. Lewis
Oscar Johnson.

her
Elmouth E. x Lowell (Seal)
mark

State of Alabama,)
)
Baldwin County.)

I, Oscar Johnson a Notary Public, in and for said County and State, do hereby certify that Elmouth E. Cooper, a widow, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day that being informed of the contents of the said conveyance she executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 24th day of March 1913.

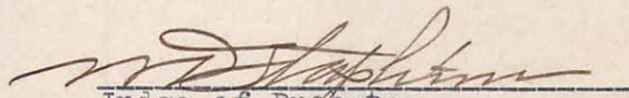
(Seal)

Oscar Johnson, Notary Public

Filed for record Dec. 19th 1913,
Recorded Dec. 20th 1913.
J H H Smith, Judge of Probate.

STATE OF ALABAMA, :
 :
BALDWIN COUNTY. :

I, W. D. Stapleton, Judge of Probate in and for said county and state, do hereby certify that the above and foregoing is a full, complete and correct copy of an instrument of writing as the same appears of record in Deed Record 20 N. S. at Pages 666-667, now on file in office of Judge of Probate of Baldwin County, Alabama.



Judge of Probate.



State of Alabama, ∅
 : ss.
Baldwin County. ∅

At a Regular Term of the Honorable, the Court of Probate, held in and for the said County, in said State, at the Court House thereof in the Town of Bay Minette, Ala., on the second Monday in August, in the year of our Lord, one thousand nine hundred and four, it being the Eighth day of said month, the following proceedings were had, to-wit:

In the matter of the application of Elmuth E Lowell, widow of Henry Lowell, Deceased, to have the property of the said Henry Lowell, deceased, set apart to her as exempt from administration on the estate of Henry Lowell, Deceased.

In the Probate Court of Baldwin County:

This cause coming on to be heard on this the 13th day of August, 1904, and it appearing to the Court that Henry Lowell has been dead more than sixty days prior to the filing of the petition in this matter, and that by a former decree in this cause, M C Cooper and E E Stanton were duly appointed as commissioners to make an inventory and appraisement of the property of Henry Lowell, Deceased, and to set apart to his widow the exemptions allowed her by law from administration on the estate of said Henry Lowell, it having been satisfactorily shown to the Court that there no minor children.

And it appearing that the said Commissioners have filed their report in writing and under oath showing that they have made an inventory of said estate, and that they have set apart to the said Elmuth E Lowell as exempt to her as the widow of Henry Lowell, Deceased, from administration on the estate of said decedent, the homestead occupied by the said Henry Lowell at the time of his death, viz:

Beginning at the north east corner of Section thirty-one (31) township 5 South of Range 4 East, running ten chains west for a starting point, thence south 20 chains, thence west 5 chains, thence south 11.7 chains, thence west 11.25 chains, thence north 31.7 chains, thence east

16.23 chains to the starting point, containing 44 11/15 acres, more or less, lying in the north east quarter of the north east quarter and in the south east quarter of the north east quarter of Section 31, township five south of range four east, in Baldwin County, Alabama, valued at \$400, which constituted all the property owned by the said Henry Lowell at the time of his death.

And it further appearing to the Court that no exceptions have been filed to said report, it is therefore ordered, adjudged and decreed that said report be and the same is hereby in all things ratified and confirmed and said property is hereby set apart to Elmuth E. Lowell as exempt to her from administration on the estate of Henry Lowell, Deceased.

Chas Hall, Judge of Probate.

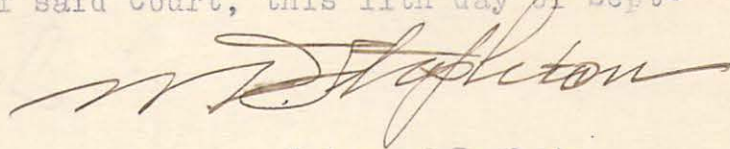
And the Court adjourned Sine Die Saturday, September 10th, 1904.

Chas. Hall, Judge of Probate

The State of Alabama,)
 :
Baldwin County.)

I, W. D. Stapleton, Judge of Probate in and for said State and County, hereby certify that the above and foregoing are true, correct, and complete copies of Opening of Probate Court of Baldwin County; Order of Court setting apart endmptions to widow, Elmuth E. Lowell, and adjournment of Probate Probate Court of Baldwin County, as the same appear of record in Minutes "F" of Probate Court at pages 123, 124 and 135, Probate Court Records, Baldwin County, Alabama.

Witness my hand and the seal of said Court, this 11th day of September, A.D., 1925.


Judge of Probate.

