

TUNSTALL BRYARS et al., *

vs.

MRS. S. E. BYRNE.

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

Now comes the respondent, Mrs. S. E. Byrne, and answering said Bill of Complaint filed in this cause, not waiving the many imperfections as on the face of the Bill, says,

FIRST.

This respondent admits that the Complainants are over the age of twenty-one years and reside in Baldwin County, Alabama, and admits that this respondent is over the age of twenty-one years and a resident citizen of Baldwin County, Alabama

SECOND.

This respondent denies that the Complainants and respondents are tenants in common in that certain tract or parcel of land situated in Baldwin County, Alabama, described as follows, to-wit:- The Northwest quarter of Section Six(6) Township One (1) North, Range Three (3) East containing one Hundred and Sixty (160) acres of land, and denies that the Complainants are now and have ever been in possession of the said lands hereinabove described, but alleges the truth to be that this respondent is the sole owner of said lands, owning the said land in fee simple and is in exclusive possession of the same and that this respondent, together with those under whom she claims, have been in the open, notorious, exclusive and adverse possession of said lands for more than twenty years prior to the filing of the Bill of Complaint in this cause and this respondent says that she and those under whom she claims have continuously listed said land for taxation for said period

of time and have paid the taxes on the said lands for said period of time, that neither of the Complainants or any person with whom they seek to connect their title have ever listed or paid taxes on said lands.

THIRD.

This respondent admits that lands hereinabove described are valuable chiefly as timber lands but denies that there is any occasion or any necessity for the sale of said lands for the reason that the Complainants are neither of them have any interest in said lands and it is not necessary that said lands be sold for any purpose, this respondent being the sole owner and in possession of said lands, the Complainants having no right, neither to the title or any interest therein and neither would they be interested in the proceeds that might be received from the sale of said lands and this respondent further denies that this Court has any right or authority to order the sale of said lands for any purposes whatsoever.

FOURTH.

This respondent having fully answered said Bill of Complaint as she is required to do by the foot note thereunto attached, further answering said Bill of Complaint says that she denies specifically that the Complainant, Tunstall Bryars owns a four-tenths undivided interest in said lands and that the Complainant, Walter Bryars owns an undivided one-tenth interest in said lands, that neither the said Tunstall Bryars or Walter Bryars are in possession of the said lands at this time or at the filing of the Bill of Complaint in this cause or were ever in the possession of said lands, but this respondent alleges the truth to be that she is now in the possession of said lands and that she, together with those under whom she claims have been in the open, notorious, exclusive and adverse possession of the same claiming them as their own, adverse

against the Complainants in this cause, and of all persons and that while said lands are valuable chiefly for timber yet this respondent and those under whom she claims have denied the right of Complainants and all other persons and have claimed said lands as their own and have been in the adverse possession of said lands adverse to Complainants and those persons with whom Complainants seek to connect their title and have at all times had said lands listed for taxes and have paid the taxes on same and that at no time during a period of twenty years from the filing of the Bill of Complaint have the Complainants or those with whom they seek to connect their title, have listed said lands or paid taxes on same. And now having fully answered this Bill of Complaint, this respondent asks to be dismissed with reasonable costs in this most wrongfully sustained cause.

Solicitor for Respondent,

Mrs. S.E. Byrne.

HYBART & HARE
ATTORNEYS AT LAW
MONROEVILLE, ALA.



Mr. T. W. Richerson,

Bay Minette,

Alabama.

Mr. T. W. Richerson,
Circuit Clerk,
Bay Minette, Ala.

Dear Mr. Richerson*;

We have your letter of the 6th. relative to the two Chancery cases of Tunstall Bryars et als. Vs. T. Lee Ferguson and Tunstall Bryars Vs. Mrs. S. E. Byrne, and are sending there two Court files under sepearate cover.

In the case of Bryars Vs. Ferguson there is no answer and we would thank you to have Judge Leigh take a submission on the demurrer interposed to the bill.

In the case of Bryars Vs. Byrne we would be glad to have Judge Leigh enter an order to complainant to take testimony say within sixty days. In this case there is an answer and no demurrer. We are today writing Mr. Tunstall Bryars to make his arrangements to take testimony, and will agree with Mr. Moorer upon a convenient date to have the witnesses appear before you in Bay Minette.

We will not attend the Court next Monday, but would thank you to advise us of the orders made in both cases.

With regards and best wishes from the
writer, we are

Yours very truly,

Hybart & Hare

By F. W. Hare

FWH/MF.

*I would appreciate it if you would
show this letter to attorneys representing
respondents thereby saving a lazy
man work. FWH*

STATE OF ALABAMA, *
*
COUNTY OF BALDWIN. *

IN THE CIRCUIT COURT OF SAID COUNTY.
IN EQUITY.

TO THE HONORABLE JOHN D. LEIGH, JUDGE:

Humbly complaining your orators, Tunstall Bryars and Walter Bryars, bring this bill of complaint against Mrs. S.E.Byrne, and respectfully show:

FIRST

Complainants are each over the age of twenty-one years, and their residence is as follows: Complainants Tunstall Bryars and Walter Bryars reside at Latham, Baldwin County, Alabama.

Mrs. S.E.Byrne
Respondent/is over the age of twenty-one years and resides at Bay Minette, Baldwin County, Alabama.

SECOND

Complainants and respondent are tenants in common in, and are in possession of, that certain land in Baldwin County, Alabama and described as follows, to-wit: The Northwest quarter of Section Six, Township one North of Range Three East, and containing One hundred and Sixty acres, more or less. The interest of each of the parties named being set forth as follows:

Complainant	Tunstall Bryars	Owns a 4/10 undivided interest
Complainant	Walter Bryars	owns a 1/10 undivided interest
Respondent	Mrs. S.E.Byrne	owns a 5/10 undivided interest

THIRD

Complainants further show that the said property is comprised of timbered lands, and complainants are informed and believe, and upon such information and belief state that it cannot be equitably divided or partitioned between the parties without a sale thereof and that a sale of said land and a division of the proceeds among the several tenants in common, in proportion to their respective shares, will promote the interests of said tenants in common, and for this reason complainants now apply to the court for a sale of said property for division under the statutes of Alabama.

PRAYER FOR PROCESS

Wherefore complainants pray that by the State's writ of Subpoena the said Mrs. S. E. Byrne, be made party respondent to this bill of complaint and be commanded to demur to, plead to, or answer this bill of complaint in all things as required by the rules and practices of this court.

PRAYER FOR RELIEF

Complainants further pray that upon the hearing of this cause Your Honor will ascertain whether the property above described can be equitably divided among the said tenants in common and if such can be done, will order a partition or division of said property in proportion to the respective interests or shares of each complainant and respondent in the same in the manner and according to the practice of this Honorable Court; but should Your Honor decide that an equal division of said property cannot be made, then complainants pray that the said entire property be decreed to be sold at public out-cry, for cash, to the highest bidder, and that the proceeds of the sale of said property be divided between the parties hereto in proportion to their respective interests in the same.

Complainants further pray for such other, further or different relief as complainants may be entitled to and to Your Honor may seem meet and proper.

Hybart, Hare, Dickey & Junstall

Solicitors for Complainants.

NOTE:

The Respondents are required to answer all the allegations of each paragraph of the foregoing bill of complaint from FIRST to Third, inclusive, but not under oath, answer under oath being hereby expressly waived.

Hybart, Hare, Dickey & Junstall

Solicitors for Complainants.

STATE OF ALABAMA, *
*
COUNTY OF BALDWIN. *

Before me, W. A. Breazeale

a notary public in and for said State and County, personally ap-
peared Tunstall Byars, who is known to me, and who
being sworn says that he is informed and believes and upon such
information and belief states that the allegations in the fore-
going bill of complaint are true.

Tunstall Byars

Sworn to and subscribed before me this _____ day of _____ 1923.

W. A. Breazeale, J. P.

~~Notary Public~~ Baldwin County, Ala.

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 Mrs. S.E. Byrne,

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 Tunstall Bryars and Walter Bryars,

against said Mrs. S.E. Byrne,

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 26th, day of October

192 3.

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

Tunstall Bryars and Walter
Bryars,

vs.

Mrs. S. E. Byrne.

Hybart Hare, Dickey & Zou
Tunstall.

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

Oct 27th 1923

by leaving a copy of the within summons with

Mrs. S. E. Byrne

Defendant.

W. R. Stuart

Sheriff.

By

B. V. Higgins
Deputy Sheriff.

RECORDED

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vs. *

MRS. S. E. BYRNE. *

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Pass Thour V.C.E.
Hamilton
Solicitor for Respondent,

Mrs. S.E. Byrne.

*Record
Dec 31/1923*