

06-152-CD
Thomas Kelly vs Mary Pavick

Thomas Kelly vs Mary Pavick
2006-152-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY,

Plaintiff,

vs.

MARY A. PAVICK, and her heirs,
devisees, administrators, executors
and assigns, and all other person,
persons, firms, partnerships or
corporate entities in interest,

Defendants.

: No. 06 - 152 C.D.

: TYPE OF CASE: ACTION TO QUIET TITLE

: TYPE OF PLEADING: COMPLAINT

: FILED ON BEHALF OF:

THOMAS P. KELLY, Plaintiff

: COUNSEL OF RECORD FOR THIS PARTY:

: PAULA M. CHERRY, ESQ.

: Supreme Court No.: 36023

: GLEASON, CHERRY AND CHERRY, L.L.P.

: Attorneys at Law

: One North Franklin Street

: P.O. Box 505

: DuBois, PA 15801-0505

: (814) 371-5800

FILED
cc: Atty Cherry

0/3:30pm
JAN 30 2008
CJW

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

THOMAS P. KELLY, :
Plaintiff, :
vs. : No. 06 - _____ C.D.

MARY A. PAVICK, and her heirs,
devisees, administrators, executors
and assigns, and all other person,
persons, firms, partnerships or
corporate entities in interest,
Defendants. : ACTION TO QUIET TITLE

NOTICE

TO: MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest:

YOU ARE HEREBY NOTIFIED THAT AN ACTION TO QUIET TITLE TO THE
PREMISES SITUATE IN SANDY TOWNSHIP, CLEARFIELD COUNTY,
PENNSYLVANIA, HAS BEEN FILED AGAINST YOU. Said premises are described as
follows:

ALL those two pieces or messuages of land which are situated in the Township of Sandy, County of Clearfield, and State of Pennsylvania, and being part of the Harriet Bogle Plat of Lots surveyed by George C. Kirk, C.E., of date June 20th and 22nd, 1916, for Harriet Bogle Estate, and known and numbered on said plat as Lots No. 36 and No. 37, and bounded and described as follows, to wit:

THE FIRST THEREOF: Bounded on the North by a 60 foot street, designated and known on said plat of lots as First Avenue; on the East by Lot No. 37 of the same plat, now or formerly the land of Joseph Plant; on the South by a 12 foot alley; and on the West by Lot No. 35 of said plat. Said lot being 50 feet in width by 150 feet in length, and being 50 feet wide on First Avenue, and extending Southerly a distance of 150 feet to said alley and being 50 feet wide on said alley.

THE SECOND THEREOF: Bounded on the North by First Avenue; on the East

by a 16 foot alley; on the South by a 12 foot alley; and on the West by Lot No. 36 of the same plat of lots and being 43 feet in width as it abuts on First Avenue in front and on the alley in the rear, and 150 feet in length.

SUBJECT, nevertheless, to any exceptions or reservations of minerals or mining rights contained in previous deeds of record in chain of title of above mentioned lands.

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within Twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, PA 16830
(814) 765-2641 Ex. 5982

GLEASON, CHERRY AND CHERRY, L.L.P.
Attorneys at Law
One North Franklin Street
P.O. Box 505
DuBois, PA 15801-0505
(814) 371-5800
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY,

Plaintiff

vs.

No. 06 - _____ C.D.

MARY A. PAVICK, and her heirs,
devisees, administrators, executors
and assigns, and all other person,
persons, firms, partnerships or
corporate entities in interest,

Defendants.

ACTION TO QUIET TITLE

COMPLAINT

The Plaintiff in the above-entitled matter, THOMAS P. KELLY, brings this Action to
Quiet Title for the purpose of barring the Defendant, MARY A. PAVICK, and her heirs,
devisees; administrators, executors and assigns; and all other person, persons, firms,
partnerships or corporate entities in interest, entitled Defendants, from asserting any right, title
and interest or lien in and to the premises described in Exhibit "A", which are situate in Sandy
Township, Clearfield County, Pennsylvania, and avers the following cause of action:

1. The Plaintiff, THOMAS P. KELLY, is an individual, who resides at 384 Midway
Drive, DuBois, Pennsylvania 15801.
2. After diligent search, the Plaintiff is unable to discover the whereabouts or identify
of the Defendant, MARY A. PAVICK, and her heirs, devisees, administrators, executors and
assigns, and all other person, persons, firms, partnerships or corporate entities in interest.

3. The premises more particularly described in Exhibit "A", which are situate in Sandy Township, Clearfield County, Pennsylvania, were conveyed to Plaintiff, THOMAS P. KELLY, by Deed of MARY KELLY, Widow, dated March 26, 1987, and recorded in the Office of the Register and Recorder of Deeds of Clearfield County, Pennsylvania, in Deeds and Records Book Vol. 1148, Page 554.

4. On October 14, 1941, FRANCIS A. KELLY and MARY BALCONIE (later married to FRANCIS A. KELLY and known as MARY KELLY), Plaintiff's parents, executed a Mortgage in favor of MARY A. PAVICK in the principal amount of TWO THOUSAND DOLLARS (\$2,000.00) conditioned on the repayment of the sum of ONE THOUSAND DOLLARS (\$1,000.00) within seven (7) calendar years from the date of the Mortgage, which was recorded in Clearfield County Mortgage Book Vol. 119, Page 57. A copy of said Mortgage securing the property which is the subject of this Action is attached hereto and made a part hereof as Exhibit "B".

5. It is believed and therefore averred that all amounts due by FRANCIS A. KELLY and MARY BALCONIE (later married to FRANCIS A. KELLY and known as MARY KELLY) have been paid in full since the time in which to do so as long expired, the Mortgage being sixty-four (64) years old, and a search of the records in the Clearfield County Courthouse shows no Mortgage Foreclosure Actions or claims having been filed against the subject premises and shows that no claim has been made against the current owner, THOMAS P. KELLY.

6. That the purpose of this Action to Quiet Title is to request the Court to acknowledge

that the above-set forth Mortgage to MARY A. PAVICK from FRANCIS A. KELLY and MARY BALCONIE is no longer valid and to order and direct the Register and Recorder of Deeds of Clearfield County, Pennsylvania, to mark the Mortgage of FRANCIS A. KELLY and MARY BALCONIE to MARY A. PAVICK, dated October 14, 1941, and recorded in Clearfield County Mortgage Book Vol. 119, Page 57, satisfied of record.

7. Another purpose of this Action is to make the title to the premises described in Exhibit "A" marketable so that the same can be certified.

8. Further, the Plaintiff, THOMAS P. KELLY, claims title in fee to the premises more particularly described in Exhibit "A" by adverse possession because he and his predecessors in title have been in actual, open, notorious, visible, hostile and continuous possession of the premises described in Exhibit "A" for a period of twenty-one (21) years and upward.

WHEREFORE, Plaintiff requests the Court to:

(a) Determine that his rights are superior to the rights of the Defendant, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest;

(b) Determine that the Plaintiff has fee simple title to the premises described in Exhibit "A" as against the Defendant, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest;

(c) Enjoin the Defendant, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in

interest from setting up any title to the premises described in Exhibit "A" and from impeaching, denying or in any way attacking the title of the Plaintiff to the premises described in Exhibit "A";

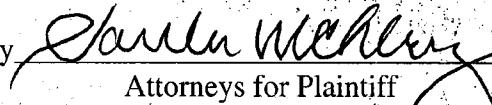
(d) Order and direct the Register and Recorder of Clearfield County, Pennsylvania, to mark the Mortgage of FRANCIS A. KELLY and MARY BALCONIE to MARY A. PAVICK, dated October 14, 1941, and recorded in Clearfield County Mortgage Book Vol. 119, Page 57, satisfied of record; and

(e) Grant and decree whatever relief may seem equitable and proper.

AND he will ever pray.

GLEASON, CHERRY AND CHERRY, L.L.P.

By


Attorneys for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

: SS.

Personally appeared before me, the undersigned officer, a Notary Public in and for the county and state aforesaid, THOMAS P. KELLY, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Thomas P. Kelly

Thomas P. Kelly

Sworn to and subscribed before me, this 26 day of January, 2006.

Paula M. Cherry

Notary Public

My commission expires: September 16, 2009

Commonwealth of Pennsylvania

NOTARIAL SEAL

PAULA M. CHERRY, Notary Public
City of Dubois, County of Clearfield

My Commission Expires September 16, 2009

Exhibit "A"

ALL those two pieces or messuages of land which are situated in the Township of Sandy, County of Clearfield, and State of Pennsylvania, and being part of the Harriet Bogle Plat of Lots surveyed by George C. Kirk, C.E., of date June 20th and 22nd, 1916, for Harriet Bogle Estate, and known and numbered on said plat as Lots No. 36 and No. 37, and bounded and described as follows, to wit:

THE FIRST THEREOF: Bounded on the North by a 60 foot street, designated and known on said plat of lots as First Avenue; on the East by Lot No. 37 of the same plat, now or formerly the land of Joseph Plant; on the South by a 12 foot alley; and on the West by Lot No. 35 of said plat. Said lot being 50 feet in width by 150 feet in length, and being 50 feet wide on First Avenue, and extending Southerly a distance of 150 feet to said alley and being 50 feet wide on said alley.

THE SECOND THEREOF: Bounded on the North by First Avenue; on the East by a 16 foot alley; on the South by a 12 foot alley; and on the West by Lot No. 36 of the same plat of lots and being 43 feet in width as it abuts on First Avenue in front and on the alley in the rear, and 150 feet in length.

SUBJECT, nevertheless, to any exceptions or reservations of minerals or mining rights contained in previous deeds of record in chain of title of above mentioned lands.

Mtg Bk 119/57

MORTGAGE) THIS INDENTURE, MADE the 14th day of October in
FRANCIS A. KELLY ET AL) the year nineteen hundred and forty-one,
TO) BETWEEN Francis A. Kelly and Mary Balaconie, both
MARY A. PAVICK) of the Township of Sandy, Clearfield County, Pennsylvania,
\$1,000.00) Mortgagors, And Mary A. Pavick of Brookway, Jefferson County,
Pennsylvania, Mortgagee,

WHEREAS, the said Mortgagors, in and by their certain Obligation or Writing Obligatory, under their hands and seals, duly executed, bearing even date herewith stadt, bound unto the said Mortgagor in the sum of Two Thousand Dollars (\$2,000.00) lawful money of the United States of America, conditioned that the said Mortgagors, their heirs, executors or administrators, shall and do well and truly pay, or cause to be paid, unto the said Mortgagor, her certain attorney's, executors, administrators or assigns, the sum of One Thousand Dollars (\$1,000.00) within seven (7) calendar Years from date, with interest thereon at the rate of six per centum (6%) per annum, computed quarterly.

AND ALSO, from time to time, and at all times, until payment of said principal sum be made as aforesaid, keep the building, erected and to be erected upon the land herein described, insured for the benefit of the Mortgagor, in some good and reliable Stock Insurance Company or Companies to the amount of at least Fifteen Hundred Dollars (\$1500.00) and take no insurance out on said buildings, not marked for the benefit of the Mortgagor; AND the further condition of the said Obligation is such, that if at any time default shall be made in the payment of interest or insurance premium as aforesaid, for after any payment thereof shall fall due, or if a breach of any other of the foregoing the space of ten (10) days be made by the said Mortgagors, their heirs, executors, administrators or assigns, then and in such case, the said principal sum shall at the option of the said Mortgagor, her executors, administrators or assigns, become due; and payment of the same, with the interest and costs of insurance due thereon, as aforesaid, together with an attorney's commission of ten (10) per cent, on the said principal sum, besides costs of suit, may be enforced and recovered at once, anything therein contained to the contrary thereof in anywise notwithstanding, as in and by the said recited Obligation and the condition thereof (relation being thereunto had) may more fully and at large appear.

NOW THIS INDENTURE WITNESSETH that the said Mortgagors, as well for and in consideration of the said debt or sum of \$2000.00 Dollars, and for the better securing the payment of the same with interest, as aforesaid, unto the said Mortgagor her executors, administrators or assigns in the discharge of the said recited Obligation, as for and in consideration of the further sum of one dollar lawful money aforesaid unto the said Mortgagors in hand well and truly paid by said Mortgagor; at or before sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained and sold, released, and confirmed, and by these presents, grant, bargain and sell, release and confirm unto the said Mortgagor, her heirs and assigns

All these two pieces or messuages of land which are situated in the Township of Sandy, County of Clearfield and State of Pennsylvania, and being part of the Harriet Bogle Plot of Lots, surveyed and platted by George C. Kirk, C. E. of date of June 20th and 22nd, 1916, for Harriet Bogle Estate, and known and numbered on said plot as Lots Number Thirty-six (36) and Number thirty-seven (37), and bounded and described as follows, to wit:

FIRST: Bounded on the North by a sixty foot Street, designated and known on said plot of Lots as First Avenue; on the East by Lot No. thirty seven (37) of the said Plot; and now or formerly the property of Joseph Plant; on the South by a Twelve (12) foot Alley; and on the West by Lot No. Thirty-five (35) of said Plot. Said Lot being

Fifty (50) feet in width by One Hundred and fifty (150) feet in length, and being fifty (50) feet wide on First Avenue and extending Southerly a distance of One Hundred and fifty (150) feet to said Alley and being fifty (50) feet wide on said Alley, and being the said Lot or piece of land which Joseph Verbalis and Rose Verbalis, husband and wife, conveyed to Mary Balconie, by deed dated December 22, 1932, and recorded at Clearfield, Pennsylvania, in Deed Book No. 301, page 44.

SECOND: Bounded on the North by First Avenue; East by a Sixteen (16) foot Alley; on the South by a Twelve (12) foot Alley, and on the West by Lot No. Thirty-six (36) of the same Plot of Lots being Forty-three (43) feet in width as it abuts on First Avenue in front and on the Sixteen foot Alley on the rear, and One Hundred and fifty (150) feet in length, and being the same Lot or piece of land which Joseph Verbalis and Rose Verbalis, husband and wife, conveyed to Mary Balconie, by deed dated December 22, 1932, and recorded at Clearfield, Pennsylvania, in Deed Book No. 301, page 44.

TOGETHER with all and singular the improvements, ways, waters, watercourses, rights, liberties, privileges, hereditaments and appurtenances whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders rents issues and profits thereof;

TO HAVE AND TO HOLD the said hereditaments and premises granted, or mentioned and intended so to be with the appurtenances, unto the said Mortgagor, her heirs and assigns, to and for the only proper use and behoof of the said Mortgagor, her heirs and assigns, forever;

AND the said Mortgagors, for their heirs and assigns do hereby covenant, promise and agree to and with the said Mortgagor, her heirs, executors, administrators and assigns, that if the said Mortgagors, their heirs or assigns, shall neglect or refuse to keep up the aforesaid insurance, it shall be lawful for the said Mortgagor, her heirs, executors, administrators or assigns, to insure the said building in a sum sufficient to secure payment of the said principal debt in case of fire, and shall recover the costs and expenses of such insurance in a suit upon this Mortgage.

PROVIDED always, nevertheless, that if the said Mortgagors, their heirs, executors, administrators or assigns, do and shall well and truly pay, or cause to be paid, unto the said Mortgagor, her executors, administrators or assigns, the said principal sum of One Thousand Dollars (\$1,000.00) Dollars, lawful money, aforesaid, on the day and time hereinbefore mentioned and appointed for payment of the same, together with interest and costs and charges of insurance, as aforesaid, and without any deduction, defalcation or abatement to be made of anything for or in respect of any taxes, charges or assessments whatsoever, then and from thenceforth, as well this present Indenture and the estate hereby granted, as the said recited Obligation, shall cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

AND PROVIDED, also, that it shall and may be lawful for the said Mortgagor, her executors, administrators or assigns, when and as soon as the said principal sum shall, in any event, become due and payable, as aforesaid, to sue out forthwith a writ or writs of Scire Facias upon this Indenture of Mortgage, and proceed thereon to judgment and execution for the recovery of said principal sum and all interest due thereon, and the costs and expenses of insurance, as aforesaid, together with an attorney's commission of ten (10) per cent. on said principal sum, besides costs of suit, without stay or exemption from execution or other process, with a full release of errors, any law or usage

to the contrary thereof in anywise notwithstanding.

IN WITNESS WHEREOF, the said parties of the first part have to these presents set their hands and seals, the day and year first above written.

Signed, Sealed and Delivered

in the presence of

Francis A. Kelly (Seal)

James A. Gleason

Mary Balconie (Seal)

COMMONWEALTH OF PENNSYLVANIA,)

ss.

COUNTY OF Clearfield)

On this 14th day of October 1941 before me, Merrit L. Edner came the above named Francis A. Kelly and Mary Balconie and acknowledged the foregoing indenture to be an act and deed, and desired the same to be recorded as such.

Witness my hand and official seal, the day and year aforesaid.

Merritt L. Edner (Off. Seal)

Notary Public.

My Commission Expires August 2, 1942

My commission expires 8/2/42.

CERTIFICATE OF RESIDENCE

To Recorder of Deeds:

I, hereby certify that the correct address and place of residence of the mortgagee herein as follows: 763 Pine Street, Brockway, Pa.

Attorney for Mortgagor

Entered of Record Oct 14, 1941 2:43 p.m.

Recorded and Compared by

Geo. W. Taylor
Recorder

MORTGAGE) THIS INDENTURE, MADE THE Eighth day of October
RUSSELL BOAL ET AL) in the year of our Lord one thousand nine hundred and
TO) forty-one.
CO. NATL. BK. AT CLFD.) BETWEEN Russell Boal and Madaline Boal, his wife,
\$1325.00) of the Township of Lawrence, County of Clearfield and State
of Pennsylvania, mortgagees and parties of the first part,
And The County National Bank at Clearfield, Pa., mortgagor, and party of the other part:
WHEREAS, the said Russell Boal and Madaline Boal in and by their Obligation or
Writing obligatory under their hands and seals duly executed, bearing even date herewith,
and firmly bound unto the said County National Bank at Clearfield in the sum of twenty-
six hundred and fifty (\$2650.00) Dollars lawful money of the United States of America,
conditioned for the payment of the just sum of Thirteen hundred and twenty-five (\$1325.00)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

THOMAS P. KELLY,
Plaintiff,
vs.

MARY A. PAVICK, and her heirs,
devisees, administrators, executors
and assigns, and all other person,
persons, firms, partnerships or
corporate entities in interest,
Defendants.

No. 06 - _____ C.D.

ACTION TO QUIET TITLE

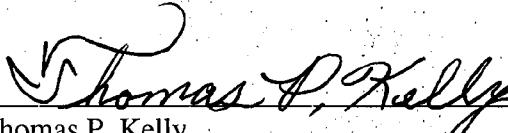
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

: SS.

AFFIDAVIT

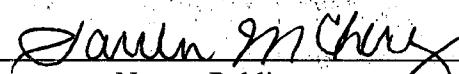
Personally appeared before me, a Notary Public in and for the county and state aforesaid, THOMAS P. KELLY, who, being duly sworn according to law, deposes and says that after diligent search, including a search of the Clearfield County Courthouse records, telephone books and post office, he is unable to find MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, claiming such interest.

Further Deponent saith not.



Thomas P. Kelly

Sworn to and subscribed before me, this 26 day of January, 2006.



Paula M. Cherry
Notary Public
My commission expires: September 16, 2009
Commonwealth of Pennsylvania

NOTARIAL SEAL
PAULA M. CHERRY, Notary Public
City of Dubois, County of Clearfield
My Commission Expires September 16, 2009

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY,

Plaintiff,

vs.

No. 06-152 C.D.

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devisees, administrators, executors
and assigns, and all other person,
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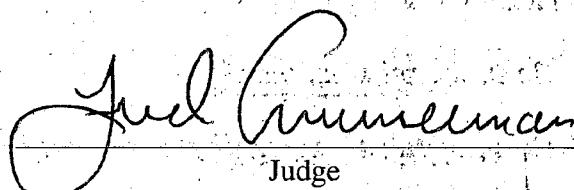
Defendants.

ACTION TO QUIET TITLE

O R D E R

NOW, this 1st day of February, 2006, it appearing that an Action to
Quiet Title has been filed in the above-entitled case and the identity and whereabouts of
MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all
other person, persons, firms, partnerships or corporate entities in interest, are unknown, the
Defendants shall be served with a copy of the Complaint by advertising the same one (1) time
in the Courier-Express newspaper and one (1) time in the Clearfield County Legal Journal in
accordance with the Notice attached to and made a part of the Complaint.

BY THE COURT,


Judge

FILED ^{cc}
01/03/06 Atty P. Cherry
FEB 02 2006
⑥

William A. Shaw
Prothonotary/Clerk of Courts

FILED

FEB 02 2006

William A. Shaw
Prothonotary/Clark of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

THOMAS P. KELLY, Plaintiff,
vs.

MARY A. PAVICK, and her heirs,
devisees, administrators,
executors and assigns, and all
other person, persons, firms,
partnerships or corporate
entities in interest, Defendants.
ACTION TO
No. 06- C.D. QUIET TITLE

C O M P L A I N T

To the Within Defendants:

YOU ARE HEREBY NOTIFIED TO PLEAD
TO THE WITHIN COMPLAINT WITHIN
TWENTY (20) DAYS FROM THE DATE OF
SERVICE HEREOF.

GLEASON, CHERRY AND CHERRY, L.L.P.:

By _____
Attorneys for Plaintiff

LAW OFFICES
GLEASON, CHERRY & CHERRY, L.L.P.
P.O. Box 505
DuBois, PENNSYLVANIA 15801-0505
ONE NORTH FRANKLIN STREET

LL D

JAN 30 2006

William A. Shaw
Prothonotary

FILED NO
03/06/2006
MAR 06 2006
cc

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

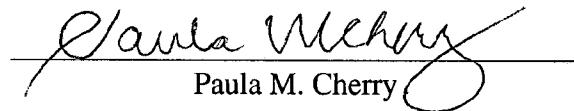
THOMAS P. KELLY, :
Plaintiff, :
vs. : No. 06 - 152 C.D.
MARY A. PAVICK, and her heirs, :
devisees, administrators, executors :
and assigns, and all other person, :
persons, firms, partnerships or :
corporate entities in interest, :
Defendants. : ACTION TO QUIET TITLE

AFFIDAVIT

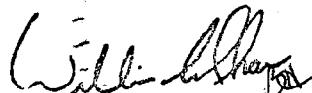
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :
:

Personally appeared before me, the undersigned officer, PAULA M. CHERRY,
Attorney for THOMAS P. KELLY, Plaintiff, who, being duly sworn according to law, deposes
and says that the service of the foregoing Complaint to Quiet Title, endorsed with Notice to
Plead within Twenty (20) days from the date of publication was made on all of the Defendants
by publication on February 7, 2006, in the Courier-Express newspaper, and the week of
February 10, 2006, in the Clearfield County Legal Journal, proof of the same is hereto attached,
in accordance with the Order of Court, and more than Twenty (20) days have elapsed since said

publications and that said Defendants have not filed an Appearance or any Answer to the Complaint, although the time in which to do so has expired.


Paula M. Cherry

Sworn to and subscribed before me this 6th day of March, 2006.



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY, PENNSYLVANIA

CIVIL DIVISION

No. 06 - 152 C.D.

ACTION TO QUIET TITLE

THOMAS P. KELLY, Plaintiff,

vs.

MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, Defendants.

NOTICE

TO: MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest:

YOU ARE HEREBY NOTIFIED THAT AN ACTION TO QUIET TITLE TO THE PREMISES SITUATE IN SANDY TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA, HAS BEEN FILED AGAINST YOU. Said premises are described as follows:

ALL those two pieces or messuages of land which are situated in the Township of Sandy, County of Clearfield, and State of Pennsylvania, and being part of the Harriet Bogle Plat of Lots surveyed by George C. Kirk, C.E., of date June 20th and 22nd 1916, for Harriet Bogle Estate, and known and numbered on said plat as Lots No. 36 and No. 37, and bounded and described as follows, to wit:

THE FIRST THEREOF: Bounded on the North by a 60 foot street, designated and known on said plat of lots as First Avenue; on the East by Lot No. 37 of the same plat, now or formerly the land of Joseph Plant; on the South by a 12 foot alley; and on the West by Lot No. 35 of said plat. Said lot being 50 feet in width by 150 feet in length, and being 50 feet wide on First Avenue, and extending Southerly a distance of 150 feet to said alley and being 50 feet wide on said alley.

THE SECOND THEREOF: Bounded on the North by First Avenue; on the East by a 16 foot alley; on the South by a 12 foot alley; and on the West by Lot No. 36 of the same plat of lots and being 43 feet in width as it abuts on First Avenue in front and on the alley in the rear, and 150 feet in length.

SUBJECT, nevertheless, to any exceptions or reservations of minerals or mining rights contained in previous deeds of record in chain of title of above mentioned lands.

You have been sued in Court. If you wish to defend against the claims set forth in the Complaint, you must take action within Twenty (20) days from the date of publication of this Notice, to wit: on or before February 27, 2006, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, PA 16830
(814) 765-2641 Ex. 5982

GLEASON, CHERRY AND CHERRY, L.L.P.
Attorneys at Law
One North Franklin Street
P.O. Box 505
DuBois, PA 15801-0505
(814) 371-5800
Attorneys for Plaintiff

**PROOF OF PUBLICATION OF NOTICE APPEARING IN THE
COURIER EXPRESS/TRI-COUNTY SUNDAY/JEFFERSONIAN DEMOCRAT
PUBLISHED BY McLEAN PUBLISHING COMPANY,
DUBOIS PENNSYLVANIA**

Under act 587, Approved May 16, 1929, P.L. 1784

**STATE OF PENNSYLVANIA
COUNTY OF CLEARFIELD**

SS:

Linda Smith, Advertising Director or Dory Ferra, Classified Advertising Supervisor of the **Courier-Express/Tri-County Sunday/Jeffersonian Democrat** of the County and State aforesaid, being duly sworn, deposes and says that the **Courier Express**, a daily newspaper, the **Tri-County Sunday**, a weekly newspaper and **Jeffersonian Democrat**, a weekly newspaper published by McLean Publishing Company at 500 Jeffers Street, City of DuBois, County and State aforesaid, which was established in the year 1879, since which date said, the daily publication and the weekly publications, has been regularly issued in said County, and that a copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions of the paper on the following dates, viz: the

7th day of February A.D., 2006

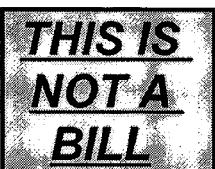
Affidavit further deposes that he is an officer duly authorized by the **Courier-Express**, a daily newspaper, **Tri-County Sunday**, a weekly newspaper, and/or **Jeffersonian Democrat**, a weekly newspaper to verify the foregoing statement under oath and also declared that affiant is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

**McLEAN PUBLISHING COMPANY Publisher of
COURIER-EXPRESS/TRI-COUNTY SUNDAY/JEFFERSONIAN DEMOCRAT**

By Linda Smith

Sworn and subscribed to before me this 17th day of Feb., 2006

Robin M. Duttry
NOTARY PUBLIC



Statement of Advertising Cost
McLEAN PUBLISHING COMPANY
Publisher of
**COURIER-EXPRESS/TRI-COUNTY SUNDAY/
JEFFERSONIAN DEMOCRAT**
DuBois, PA

NOTARIAL SEAL
ROBIN M. DUTTRY, NOTARY PUBLIC
CITY OF DUBOIS, CLEARFIELD COUNTY
MY COMMISSION EXPIRES APRIL 16, 2006

TO

Gleason Cherry & Cherry

For publishing the notice or advertisement attached hereto on the above stated dates.....	<u>\$299.70</u>
Probating same.....	<u>\$7.50</u>
Total.....	<u>\$307.20</u>

Publisher's Receipt for Advertising Costs

The **Courier-Express**, a daily newspaper, **Tri-County Sunday**, a weekly newspaper, and/or **Jeffersonian Democrat**, a weekly newspaper, hereby acknowledges receipt of the aforesaid advertising and publication costs, and certifies that the same have been fully paid.

Office: Jeffers Street and Beaver Drive, DuBois, PA 15801

Established 1879, Phone 814-371-4200

McLEAN PUBLISHING COMPANY

Publisher of

COURIER-EXPRESS/TRI-COUNTY SUNDAY/JEFFERSONIAN DEMOCRAT

By

I hereby certify that the foregoing is the original Proof of Publication and receipt for the Advertising costs in the subject matter of said notice.

ATTORNEY FOR

PROOF OF PUBLICATION

STATE OF PENNSYLVANIA

COUNTY OF CLEARFIELD

On this 10th day of February AD 2006, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary A. Knaresboro editor of the Clearfield County Legal Journal of the Courts of Clearfield County, and that the annexed is a true copy of the notice or advertisement published in said publication in the regular issues of Week of February 10, 2006, Vol. 18 No. 6. And that all of the allegations of this statement as to the time, place, and character of the publication are true.

DeBois PA 15801
PO Box 505
Gleason Gary A. Knaresboro, Esquire
Editor

Sworn and subscribed to before me the day and year aforesaid.

Sharon J. Pusey
Notary Public
My Commission Expires

NOTARIAL SEAL
SHARON J. PUSEY, Notary Public
Clearfield, Clearfield County, PA
My Commission Expires APRIL 7, 2007

Gleason Cherry & Cherry, Bedell
PO Box 505
DuBois PA 15801

FILED

MAR 06 2006

William A. Shaw
Prothonotary/Clerk of Courts

December 14, 2005.

The purpose of the condemnation is to acquire property for transportation purposes.

Plans showing the property condemned from the parcels listed on the Schedule of Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed.

shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

All that certain lot or piece of ground situate in the Township of Bigler, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at the Northwest corner of lands of Jerry Hegarty on the State Highway leading from Madera to Glen Hope; thence along State Highway in a westerly direction 58.25 feet to corner on Chestnut Street extension; thence along the Chestnut Street extension South 19 degrees 40 minutes East 164 feet to alley; thence along said Alley North 70 degrees 20 minutes East 58 feet to corner on line of Jerry Hegarty Estate; thence along line of Jerry Hegarty Estate North 19 degrees 40 minutes West 169 feet to State Highway and place of beginning. Being known as Lot No. 1 in Jerry Hegarty Extension to Lawton Town Plot.

EXCEPTING AND RESERVING all the exceptions and reservations as contained in the chain of title.

BEING known as Tax Assessment Number: 103-K14-484-32

And

ALL that certain piece or parcel of land together with all improvements thereon situate in the Township of Bigler, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a point on the southeast side of State Route 53 and the line of land of the Grantee; thence North seventy (70°) degrees twenty (20') minutes East along the Southeast side of State Route 53 eighty-eight and eighty-five hundredths (88.85) feet to an iron pin; thence South nineteen (19°) degrees eleven (11') minutes thirty (30") seconds East a distance of one hundred sixty-nine and one one-hundredths (169.01) feet to an iron pin; thence South seventy (70°) degrees twenty (20') minutes ten (10") seconds West along the line of land of the Grantor eighty-seven and twenty one-hundredths (87.20) feet to a railroad spike in

6A
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GK

William A. Shaw
Prothonotary Clerk of Court

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY, :
Plaintiff, :
vs. : No. 06 - 152 C.D.
:

MARY A. PAVICK, and her heirs, : ACTION TO QUIET TITLE
devisees, administrators, executors :
and assigns, and all other person, :
persons, firms, partnerships or :
corporate entities in interest, :
Defendants. :

MOTION FOR JUDGMENT

AND NOW, this 6th day of March, 2006, an Affidavit having been filed by Plaintiff, THOMAS P. KELLY, by his attorney, PAULA M. CHERRY, that the Complaint with Notice to Plead was served on all of the Defendants and the Defendants have not answered, the Plaintiff, by his attorney, PAULA M. CHERRY, moves the Court to enter judgment in favor of the Plaintiff and against the Defendants in the above-named case and to grant to the Plaintiff the relief prayed for in accordance with Pennsylvania Rules of Civil Procedure 1066. Plaintiff further requests that the Honorable Court modify in accordance with Pennsylvania Rules of Civil Procedure, Rule 248, the Thirty (30) day period provided Defendants by Pennsylvania Rules of Civil Procedure, Rule 1066(b) to assert any right, lien, title or interest in the land inconsistent with the interest or claim Plaintiff set forth in his Complaint.

GLEASON, CHERRY AND CHERRY, L.L.P.

By Paula M. Cherry
Attorneys for Plaintiff

FILED *cc*
010:42/51 Atty P. Cherry
MAR 08 2006 (CK)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY, :
Plaintiff, :
vs. :
No. 06 - 152 C.D.
MARY A. PAVICK, and her heirs, :
devisees, administrators, executors :
and assigns, and all other person, :
persons, firms, partnerships or :
corporate entities in interest, :
Defendants. :
ACTION TO QUIET TITLE

O R D E R

AND NOW, this 7th day of March, 2006, it appearing that service of the Complaint to Quiet Title in the above Action was made on all of the Defendants and by Affidavit of PAULA M. CHERRY, Attorney for Plaintiff, no Answer or Appearance has been filed to said Action, and on Motion of PAULA M. CHERRY, Attorney for Plaintiff, it is hereby ORDERED AND DECREED:

1. That the Defendants, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, are forever barred from asserting any right, title, lien or interest inconsistent with the interest or claim of the Plaintiff as set forth in his Complaint in and to:

ALL those two pieces or messuages of land which are situated in the Township of Sandy, County of Clearfield, and State of Pennsylvania, and being part of the Harriet Bogle Plat of Lots surveyed by George C. Kirk, C.E., of date June 20th and 22nd, 1916, for Harriet Bogle

Estate, and known and numbered on said plat as Lots No. 36 and No. 37, and bounded and described as follows, to wit:

THE FIRST THEREOF: Bounded on the North by a 60 foot street, designated and known on said plat of lots as First Avenue; on the East by Lot No. 37 of the same plat, now or formerly the land of Joseph Plant; on the South by a 12 foot alley; and on the West by Lot No. 35 of said plat. Said lot being 50 feet in width by 150 feet in length, and being 50 feet wide on First Avenue, and extending Southerly a distance of 150 feet to said alley and being 50 feet wide on said alley.

THE SECOND THEREOF: Bounded on the North by First Avenue; on the East by a 16 foot alley; on the South by a 12 foot alley; and on the West by Lot No. 36 of the same plat of lots and being 43 feet in width as it abuts on First Avenue in front and on the alley in the rear, and 150 feet in length.

SUBJECT, nevertheless, to any exceptions or reservations of minerals or mining rights contained in previous deeds of record in chain of title of above mentioned lands.

2. That the rights of the Plaintiff are superior to the rights of the Defendants, MARY A.

PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest.

3. That Plaintiff and any subsequent owners of the premises as described in the Complaint have fee simple title as against the Defendants, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest.

4. That the Defendants, MARY A. PAVICK, and her heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, are enjoined and forever barred from asserting any right, title or interest in and to the premises described which are inconsistent with the interest or claims of the Plaintiff as set forth

in his Complaint and from setting up any title to the premises and from impeaching, denying or in any way attacking the title of the Plaintiff or subsequent owners of the premises.

5. That the Register and Recorder of Clearfield County, Pennsylvania, shall mark the Mortgage of FRANCIS A. KELLY and MARY BALCONIE to MARY A. PAVICK, dated October 14, 1941, and recorded in Clearfield County Mortgage Book Vol. 119, Page 57, satisfied of record on the margin of the Mortgage and in the indices of the records filed in Clearfield County, thereby removing the lien of the Mortgage from the premises described therein.

6. That the Thirty (30) day provision of Pennsylvania Rules of Civil Procedure 1066(b)(i) be modified as to eliminate the said Thirty (30) day Rule of Pennsylvania Rules of Civil Procedure from this case. Said modification is in accordance with the authority vested in this Court by virtue of the Pennsylvania Rules of Civil Procedure No. 248, to eliminate any time period prescribed by Pennsylvania Rules of Civil Procedure upon Order of Court.

7. That these proceedings, or any authenticated copy thereof, shall at all times hereafter be taken as evidence of the facts declared and established thereby.

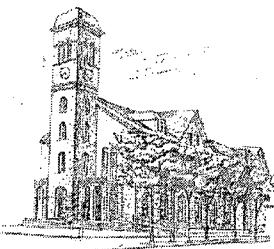
8. That a certified copy of this Order shall be recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania.

BY THE COURT,



Judge

P. Cherry



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts	David S. Ammerman Solicitor	Jacki Kendrick Deputy Prothonotary	Bonnie Hudson Administrative Assistant
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To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/8/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS P. KELLY, :
Plaintiff, :
vs. : No. 06 - 152 C.D.
MARY A. PAVICK, and her heirs, : ACTION TO QUIET TITLE
devisees, administrators, executors :
and assigns, and all other person, :
persons, firms, partnerships or :
corporate entities in interest, :
Defendants. :

P R A E C I P E

TO: WILLIAM A. SHAW, PROTHONOTARY

Dear Sir:

Please enter final judgment in favor of the above-named Plaintiff and against the
Defendants in accordance with Order of Court dated March 7th, 2006.

GLEASON, CHERRY AND CHERRY, L.L.P.

By Dawn Vickery
Attorneys for Plaintiff

FILED NO cc
010:42 AM
MAR 08 2006
CR

William A. Shaw
Prothonotary/Clerk of Courts