

DOCKET NO. 173

| NUMBER | TERM | YEAR |
|------------|-----------------|-------------|
| <u>182</u> | <u>February</u> | <u>1961</u> |

Edgar F. Brasseur

Margaret Brasseur

VERSUS

Genevieve Middle, Hazel Alexander;
Sara J. Huntington; James Shotz-
barger, et al

In the Court of Common Pleas Of Clearfield County, Pa.

Edgar F. Brasseur and
Margaret Brasseur

No 182 Feb Term 1961

vs

Genevieve Liddle, Hazel
Alexander, Sara J. Huntington
James Shotzbuger, Fannie
Bogle and Franklin Liddle.
heirs at law of E.M. Liddle
and Mary A. Liddle, Deceased

Action to Quiet Title

(Sheriff,s Return)

Now, March 4, 1961 deputized the Sheriff of Cambria County to serve the within Action To Quiet Title upon Genevieve Liddle.

Now, Mar 14, 1961 served the within Complaint Action to Quiet Title upon Genevieve Liddle by deputizing the Sheriff of Cambria County, The return of service of John A. Conway Sheriff of Cambria County is hereto attached and made part of this return of service.

Now, March 4, 1961 deputized the Sheriff Of Delaware County to serve the within Action To Quiet Title upon Hazel Alexander.

Now, Mar 18, 1961 served the within Action To Quiet Title upon Hazel Alexander by deputizing the Sheriff Of Delaware County The Return of service of Aldrich Price Sheriff Of Delaware County is hereto attached and made part of this return of service

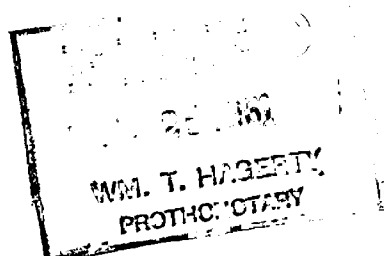
Now, March 10, 1961 at 7:40 O'Clock P.M. served the within Action to Quiet Title on Sara J Huntington at place of residence 101 Spring Ave, Du Bois, Pa. by handing to her personally a true and attested copy of the original Action To Quiet Title and made known to her the contents Thereof.

Now, March 10, 1961 at 8:50 O'Clock P.M. served the within Action To Quiet Title on James Shotzbuger at place of residence 104 Spring Ave, Du Bois, Pa., by handing to him personally a true and attested copy of the original Action To Quiet Title and made known to him the contents thereof.

Now, March 11, 1961 at 6:55 O'Clock P.M. served the within Action To Quiet Title on Fannie Bogle at place of residence Box 127, R.D. 3, Du Bois, Pa. by handing to her personally a true and attested copy of the original Action To Quiet Title and made known to her the contents thereof.

Now, March 4, 1961 deputized the Sheriff Of Maricopa County, Arizona to serve the within Action To Quiet Title on Franklin Liddle.

Now, Mar 8, 1961 "UNSERVED" notice returned from Cal Boies Sheriff of Maricopa County, Arizona., is hereto attached and made part of this return of service.



Costs Sheriff Ammerman \$35.80
Sheriff Of Delaware County \$8.20
Sheriff Of Cambria County \$6.70
(Paid by 17745 E.C.C.)

So Answers,

Charles G. Ammerman
Charles G. Ammerman
Sheriff

Sworn to before me this 9th
day of May 1961. A.D.

Wm. L. Harty
Prothonotary.

SHERIFFS' RETURN

SUMMONED HAZEL ALEXANDER the within named
Defendant March 18th, 1961 at 9:50 A.M. o'clock EST by handing a
true and attested copy of the within Complaint to her personally
at her place of residence 236 E. Greenwood Ave., Lansdowne, Del. Co.
Penna.

Harry Leary
HARRY LEARY
DEPUTY SHERIFF

SO ANSWERS

W. M. L. L.
SHERIFF

J. L. L.
CHIEF DEPUTY SHERIFF

I know all men by these presents, That I, _____

Charles G. Ammerman _____

High Sheriff of Clearfield County, State of Pennsylvania, do hereby deputize Sheriff of _____
Delaware County _____ to execute this writ; this deputation being made at the

request and risk of the Plaintiff.

Given under my hand and seal this _____ 4th _____ day of _____ March _____

A. D. 19 _____ 61.

Charles G. Ammerman

CHARLES G. AMMERMAN _____

Sheriff.

3/17/61. 6:30 PM.
Not home

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

NO. 182 FEB. TERM, 1961

Invoice - #57425

EDGAR F. BRASSEUR and
MARGARET BRASSEUR,
Plaintiffs

vs

GENEVIEVE LIDDLE, HAZEL
ALEXANDER: SARA J. HUNTINGTON:
JAMES SHOTZBARGER: FANNIE
BOGLE and FRANKLIN LIDDLE,
HEIRS AT LAW OF E. M. LIDDLE
and MARY A. LIDDLE, deceased,
Defendants

SERVE:

HAZEL ALEXANDER
236 E. GREENWOOD AVENUE, ✓
LANSDOWNE, PA.

Action To Quiet Title

*8.20 Pd
Filed - 3-4-61*

G. EASON, CHERRY & CHERRY
7-10 DAMUS BUILDING,
DU BOIS, PENNSYLVANIA

7-P24

3/18/61. 9:50 AM
Served copy of writ
Complaint to Quiet Title
on Hazel Alexander
236 E. Greenwood Ave
Lansdowne Pa
Leary

Mar. 14, 1961, at 3:15 o'clock, P.M., E.S.T., Served Complaint on to
Quiet Title, upon Genevieve Liddle, by handing a true and attested copy
thereof to her, personally, at her dwelling place at Ebensburg, Cambria
County, Penna., and making contents thereof known to her. My costs paid
by Attorneys Gleason, Cherry & Cherry, Clearfield County, Penna.

So answers,

John A. Conway
Sheriff

Sheriff Conway \$6.20
Pro. .50
TOTAL \$6.70
Sworn and subscribed to before me
this 27th day of March 1961.

Joseph H. Chelani
Prothonotary.

NO. 182 Feb. TERM, 1961.
CLEARFIELD COUNTY

Edgar F. Brasseur and Margaret
Brasseur

VS.

Genevieve Liddle, Hazel Alexander,
Sara J. Huntington, James Shotzbarger,
Fannie Bogle and Franklin Liddle,
~~heirs at law of E. M. Liddle and Mary A~~
Liddle, deceased.

COMPLAINT ACTION TO QUIET TITLE
SHERIFF'S RETURN

CLEARFIELD COUNTY, PA.

765

Know all men by these presents, That I, Charles G. Ammerman
High Sheriff of Clearfield County, State of Pennsylvania, do hereby deputize Sheriff of
Cambria County to execute this writ; this deputation being made at the
request and risk of the Plaintiff.

Given under my hand and seal this 4th day of March

A. D. 1961.

Charles G. Ammerman
CHARLES G. AMMERMAN
Sheriff.

CHARLES G. AMMERMAN Sheriff

A. D. 19 61

Given under my hand and seal this

4th

day of

March

request and risk of the plaintiff.

Campbell County

High Sheriff of Chesterfield County, State of Pennsylvania, do hereby deputize Sheriff of

Signed all with my official signature, that I

Charles G. Ammerman



3-8-61. Complaint Case No. 182

Type of Paper

Serve

Franklin Liddle

Address

61420 N. 22 St. Apt. 6

By Serving

Returned

Who Is

Date Served

3-8-61

Miles Traveled

6

Remarks

Moved to Mesa Area

Witness

Deputy

James T. Galt

FORM 50.57-1

Know all men by these presents, That I, Charles G. Ammerman
High Sheriff of Clearfield County, State of Pennsylvania, do hereby deputize Sheriff of _____
Maricopa County, Arizona to execute this writ; this deputation being made at the
request and risk of the Plaintiff.

Given under my hand and seal this 4th day of March

A. D. 19 61


CHARLES G. AMMERMAN
Sheriff.

OK checked and
prototyped

CIVIL DIVISION
MAR 9 10 57 AM '61

MARICOPA COUNTY
SHERIFF'S OFFICE
PHOENIX, ARIZONA



OFFICE OF THE

Sheriff of Clearfield County

CLEARFIELD, PA., March 4, 19 61

Edgar F. Brasseur et al

vs.

Genevieve Liddle et al

February Term, 19 61

No. 182

To the Sheriff of Maricopa County: Arizona

Dear Sir:

Enclosed please find writ Complaint Action To Quiet Title

to be served upon Franklin Liddle at

4420 N. 22nd St. Apt #6, Phoenix in your County.

Kindly make service thereof and return with the amount of your costs.

Yours truly,

Charles G. Ammerman
CHARLES G. AMMERMAN
Sheriff.

*Use as
original
182
128-578*

62

| | |
|--|---|
| <p>IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. <u>182</u> <u>Feb.</u> TERM, 1961</p> | <p>EDGAR F. BRASSEUR and MARGARET BRASSEUR, Plaintiffs</p> <p>vs.</p> <p>GENEVIEVE LIDDLE, HAZEL ALEXANDER; SARA J. HUMINGTON; JAMES SHOTZBARGER; FANNIE BOGLE and FRANKLIN LIDDLE, heirs at law of E. M. LIDDLE and MARY A. LIDDLE, deceased, Defendants</p> |
| <p>ACTION TO QUIET TITLE</p> | |
| <p>TO WITHIN NAMED DEFENDANTS:</p> <p>You are hereby notified to plead to the enclosed Com- plaint within twenty (20) days from the service hereof.</p> <p>GLEASON, CHERRY & CHERRY Attorneys for Plaintiffs</p> <p>By <u>Edward V. Cherry</u></p> | |
| <p>LAW OFFICES GLEASON, CHERRY & CHERRY 7-10 DAMUS BUILDING DU BOIS, PENNSYLVANIA 109 N. BRADY STREET</p> | |

I hereby certify this to be a true and
attested copy of the original statement
filed in this case.

Attest: Harry C. Haggerty
Prothonotary.

4420 N. 22nd St. Apt 6
PH

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDGAR F. BRASSEUR and
MARGARET BRASSEUR,
Plaintiffs

Vs.

GENEVIEVE LIDDLE, HAZEL
ALEXANDER; SARA J. HUNTINGTON;
JAMES SHOTEBARGER; FANNIE
BOGLE and FRANKLIN LIDDLE,
heirs at law of E. M. LIDDLE
and MARY A. LIDDLE, deceased,
Defendants

: NO. 112 TERM, 1961

: ACTION TO QUIET TITLE

COMPLAINT

The Plaintiffs, EDGAR F. BRASSEUR and MARGARET BRASSEUR, bring this action to quiet title for the purpose of barring the Defendants, their heirs, devisees, administrators, and assigns, and any other person, persons, firms, partnerships or corporate entities in interest from asserting any right, title, interest or lien in and to all the surface and gas and oil in, upon or under the premises described in Exhibit "A" situate in Sandy Township, Clearfield County, Pennsylvania, and aver the following cause of action.

1. The Plaintiffs, EDGAR F. BRASSEUR and MARGARET BRASSEUR, husband and wife, are individuals who reside at Sandy Township, Clearfield County, Pennsylvania.

2. That Defendant, GENEVIEVE LIDDLE, is an individual who resides at Ebensburg, Cambria County, Pennsylvania.

3. That Defendant, HAZEL ALEXANDER, is an individual who resides at Lansdowne, Delaware County, Pennsylvania.

4. That Defendant, SARA J. HUNTINGTON, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

5. That Defendant, JAMES SHOTEBARGER, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

6. That Defendant, FANNIE BOGLE, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

7. That Defendant, FRANKLIN LIDDLE, is an individual who resides at 4420 North 22nd Street, Apartment 6, Phoenix, Arizona.

8. That said Defendants are the heirs at law of E. M. LIDDLE and MARY A. LIDDLE, deceased.

9. That Andrew Liddle became the record owner of certain premises situate in Sandy Township, Clearfield County, Pennsylvania, by deed of John Carrier and S. A. Carrier, his wife; dated June 9, 1875 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 126 and by deed of Andrew Wilson and Margaret Jane Wilson, dated January 7, 1859 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 125.

10. That said premises described in Exhibit "A" is a portion of said premises of said Andrew Liddle.

11. That said Andrew Liddle died intestate on May 20, 1899 and left to survive him as his heirs at law his wife, Mary A. Liddle; five children, namely, S. C. Liddle, E. M. Liddle, Fannie May, W. H. Liddle and James A. Liddle; and the heirs of a deceased child, Lizzie Porter.

12. That said Lizzie Porter having predeceased said Andrew Liddle left to survive her as her heirs at law, her husband, W. A. Porter, and ten minor children; namely, Robert L. Porter, Ruth M. Porter, Mary F. Porter, Sarah D. Porter, William F. Porter, Helen M. Porter, Susan C. Porter, Elizabeth Porter, Frances E. Porter, and Henry P. Porter.

13. That as a result, each of said children of said Andrew Liddle and the heirs of Lizzie Porter, deceased, became vested of 1/6 undivided interest in said premises of said Andrew Liddle.

14. That said E. M. Liddle conveyed his undivided 1/6 in-

terest to said Andrew Liddle premises to the remaining heirs at law of said Andrew Liddle; namely, Mary A. Liddle, James A. Liddle, W. H. Liddle, Fannie May, S. C. Liddle, Henry P. Porter, Frances E. Porter, Elizabeth Porter, Susan C. Porter, Mary F. Porter, Helen M. Porter, Sarah D. Porter, William F. Porter, Ruth M. Porter and Robert L. Porter, by deed dated July 9, 1902 and recorded at Clearfield, Pennsylvania, in Deed Book No. 125, page 275.

15. Subsequently, said heirs of Andrew Liddle; namely, James A. Liddle, W. H. Liddle, Fannie May, S. C. Liddle, W. A. Porter and H. B. Powell, guardian of Henry P. Porter, Frances E. Porter, Elizabeth Porter, Susan C. Porter, Helen M. Porter, William F. Porter, Sarah D. Porter, Mary F. Porter, Ruth M. Porter, and Robert L. Porter, minor children of Lizzie Porter, deceased, entered into an amicable partition of said premises as evidenced by deed of partition dated April _____, 1905, and recorded at Clearfield, Pennsylvania, on March 4, 1908, in Deed Book No. 165, page 297. Said E. M. Liddle previously having conveyed his undivided 1/6 interest to said Andrew Liddle premises by said deed dated July 9, 1902, and recorded in Deed Book No. 125, page 275 as stated above, did not join in said partition deed.

16. That said Mary A. Liddle, through error, mistake or inadvertence, did not join in said partition deed.

17. That as a result of said partition deed, said S. C. Liddle became the record owner of said premises described in Exhibit "A" hereunto attached situate in Sandy Township, Clearfield County, Pennsylvania, subject to a reservation of all the coal, fireclay, and other minerals in, under, and upon said lands with the right of ingress, egress, and regress to take and remove the same without liability for damages that may be done to the

surface of said land by reason of failure of support.

18. That said S. C. Liddle was in continuous, open, visible, hostile, notorious and actual possession of said premises as described in Exhibit "A" until he died intestate on December 23, 1907 leaving to survive him as his heirs at law, his widow Ruby E. Liddle and two children, namely, Muriel Liddle and Alta Marie Liddle.

19. That said heirs at law of S. C. Liddle, namely, Ruby E. Liddle, Muriel Liddle and Alta Marie Liddle continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until they conveyed said premises to David R. Moore, by their deed dated April 15, 1929 and recorded at Clearfield, Pennsylvania, on October 16, 1931, in Deed Book No. 291, page 403.

20. That said David R. Moore continued in open, visible, hostile, notorious, actual, and continuous possession of said premises described in Exhibit "A", until he conveyed said premises to Joseph Moore by his deed dated October 13, 1931, and recorded at Clearfield, Pennsylvania, on October 16, 1931 in Deed Book No. 299, page 478.

21. That said Joseph Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until his death on April 27, 1944.

22. That said Joseph Moore, deceased, left a Will duly probated by which he devised said premises described in Exhibit "A" unto David R. Moore.

23. That said David R. Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises until his death on June 13, 1948.

24. That said David R. Moore, deceased, left a Will, duly

probated, by which he devised said premises described in Exhibit "A" unto Robert Moore.

25. That said Robert Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until he conveyed said premises to Margaret Brasseur and Edgar F. Brasseur by his deed dated July 29, 1949 and recorded at Clearfield, Pennsylvania, on August 5, 1949 in Deed Book No. 400, page 133.

26. That said Edgar F. Brasseur and Margaret Brasseur continued and still continue in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A".

27. That said premises as described in Exhibit "A" has been assessed to said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in abstract of title hereunto attached and marked Exhibit "I" and made a part hereof, from the date of said partition to the present time.

28. That no other person, firm or corporation has been assessed with any portion of said premises as described in Exhibit "A".

29. That the taxes on said premises as described in Exhibit "A" have been paid by said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in said abstract of title marked Exhibit "B", from the date of said partition to the present time.

30. That said Edgar F. Brasseur and Margaret Brasseur continue to be the present owners of said premises subject to the reservation of coal, fireclay and other minerals in, upon, or under said premises as stated above.

WHEREFORE, Plaintiffs request the Court to (a) determine that

their rights are superior to the rights of the Defendants, their heirs, devisees, administrators, and assigns and all other person, persons, firms, partnerships, or corporate entities in interest; (b) that they have fee simple title to the surface and gas and oil in, upon or under said premises described in Exhibit "A", as against all of the Defendants, their heirs, devisees, administrators, and assigns and all other person, persons, firms, partnerships or corporate entities in interest; (c) to enjoin the Defendants, their heirs, devisees, administrators, and assigns and any other person, persons, firms, partnerships or corporate entities in interest from setting up any title to the surface and the gas and oil in, upon or under said premises described in Exhibit "A"; from impeaching, denying, or in any way attacking the title of Plaintiffs to said surface and the gas and oil in, upon, or under said premises described in Exhibit "A"; and grant and decree whatsoever relief as may appear equitable and proper.

And they will ever pray.

GLEASON, CHERRY & CHERRY

By Edward V. Cherry
Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Personally appeared before the undersigned, a Notary Public, in and for the County and State aforesaid, EDGAR F. BRASSEUR and MARGARET BRASSEUR, 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 their knowledge, information and belief.

Edgar F. Brasseur

Margaret F. Brasseur

Sworn to and subscribed before me this 27th day of

February, 1961.

Joseph M. Cherry
Notary Public

My Commission expires Jan. 7, 1963.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows, to-wit;

BEGINNING at a stone corner on line of land of Sarah Kartman; thence by line of land of A. E. Bogle due North 1798.7 Feet to a corner; thence South 89° 35' East 1297.1 Feet to line of land of A. E. Bogle; thence South 1° 1' West 848.7 Feet to a post; thence by line of lands of W. C. Dunlap South 21° 0' West 1635 Feet to old post on line of land of John E. Lines; thence South 79° 13' West 931.3 Feet to place of beginning. Containing 45.5992 acres.

"EXCEPTING AND RESERVING, nevertheless, all the coal, fireclay, and other minerals in, under and upon said lands with the right of ingress, egress and regress to take and remove the same without liability for damage that may be done to the surface of said land by reason of failure of support or otherwise in so doing.

EXHIBIT "B"

ABSTRACT OF TITLE

I.

Robert Moore, Single : DEED
 : Dated July 29, 1949
 to : Recorded August 5, 1949
 : at Clearfield, Pa., in
 Edgar F. Brasseur and : Deed Book No. 400, page 133
 Margaret Brasseur, his wife:
 45.5992 Acres :

II.

Robert Moore :
 by will of David Moore who :
 died on June 13, 1948 :
 45.5992 Acres :

III.

David Moore :
 by will of Joseph :
 Moore who died on :
 April 27, 1944. :
 45.5992 Acres :

IV.

David R. Moore, Single : DEED
 : Dated October 13, 1931
 to : Recorded October 13, 1931
 : At Clearfield, Pa., in
 Joseph Moore : Deed Book No. 299, page 478
 45.5992 Acres :

V.

Ruby E. Liddle, Widow : DEED
 Muriel Liddle, Single : Dated April 16, 1929
 Alta Marie Liddle Single : Recorded May 22, 1929
 45.5992 Acres : At Clearfield, Pa., in
 to : Deed Book No. 291, page 403
 :
 David R. Moore :

VI.

Ruby E. Liddle :
 Muriel Liddle :
 Alta Marie Liddle :
 heirs at law of S.C. Liddle: :
 who died on December 23, :
 1907 :
 45.5992 Acres :

VII.

James A. Liddle and Mary :
 Liddle, : DEED
 his wife; Fannie E. May and: Dated April , 1905
 Peter May, her husband; W.H. Recorded March 4, 1908
 Liddle and Gertrude Liddle, :
 his : At Clearfield, Pa., in
 wife; W.A. Porter, Widower;: Deed Book No. 185, page 297
 H.B. Powell, guardian of :
 Robert L. Porter, Mary F. :
 Porter, Sarah D. Porter, :
 William :

F. Porter, Helen M. Porter, :
Susan C. Porter, Elizabeth :
Porter, Francis E. Porter, :
Henry P. Porter :
to :
S. C. Liddle :
45.5992 Acres :

VIII.

E. M. Liddle and Jennie Liddle, : DEED
his wife : 1/6 interest
to : Dated July 9, 1902
: Recorded July 23, 1902
: At Clearfield, Pa., in
Mary A. Liddle, James A. Liddle, : Deed Book No. 125, page 275
W. H. Liddle, Fannie May, S. C. :
Liddle, Henry P. Porter, Francis :
E. Porter, Elizabeth Porter, :
Susan C. Porter, Mary F. Porter, :
Helen M. Porter, Sarah D. Porter, :
William F. Porter, Ruth M. Porter, :
Robert L. Porter :

IX.

W. A. Porter, Henry P. Porter, :
Francis E. Porter, Elizabeth :
Porter, Susan C. Porter, Mary :
F. Porter, Helen M. Porter, :
Sarah D. Porter, William F. :
Porter, Ruth M. Porter, and :
Robert L. Porter :
heirs at law of Lizzie Porter, :
daughter of Andrew Liddle, and :
E. M. Liddle, S. C. Liddle, :
Fannie May, W. H. Liddle, and :
James A. Liddle :
heirs at law of Andrew Liddle :
who died on May 20, 1899 :

X.

Andrew Wilson and Margaret Jane : DEED
Wilson, his wife : Dated January 7, 1859
to : Recorded January 23, 1877
: At Clearfield, Pa., in
Andrew Liddle : Deed Book No. 10, Page 125

XI.

John Carrier and S. A. Carrier, : DEED
his wife : Dated June 9, 1875
to : Recorded January 23, 1877
: At Clearfield, Pa., in
Andrew Liddle : Deed Book No. 10, page 126

Edward F. Bauman
Margaret Bauman
VERSUS
Hennrichs et al

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA.

No. 183 Term February 1961

To Allen T. Hagler

Prothonotary.

Sir: Enter appearance for Place the
above case on the 2nd
September Trial

~~in above case.~~

William George Long
Attorney for Margaret Bauman

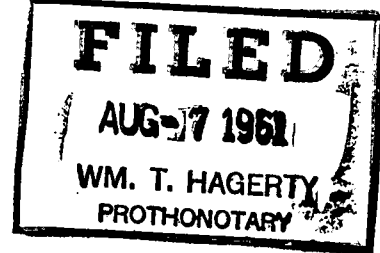
No. _____ Term _____ 19 _____

vs.

APPEARANCE

For _____

(E)



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDGAR F. BRASSEUR and
MARGARET BRASSEUR, Plaintiffs

VS

GENEVIEVE LIDDLE, HAZEL
ALEXANDER; SARA J. HUNTINGTON;
JAMES SHOTZBARGER; FANNIE
BOGLE and FRANKLIN LIDDLE,
heirs at law of E.M. LIDDLE
and MARY A. LIDDLE, deceased,
Defendants

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:No. 182 February Term, 1961

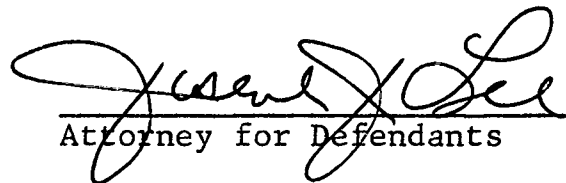
: Action To Quiet Title

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Please enter my appearance on behalf of the defendants in
the above entitled case.


Attorney for Defendants

Dated: March 21, 1961

No. 182 Sub Term, 1961

Versus

Continued

Q. L. L. L.
Attorney

Service accepted 8-9-62
James J. L.
Atty for Defendants

Member of
Federal Deposit Insurance
Corporation



Member of
Federal Reserve
System

To be taxed as costs -

In re:

Edgar F. Brasseur, et al

-vs-

Genevieve Liddle, et al

No. 182 Feb. Term, 1961

Transcript of testimony
taken Jan. 26, 1962

78 folios @ 30¢ \$23.40

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

EDGAR F. BRASSEUR and
MARGARET BRASSEUR
Plaintiffs

-vs-

GENEVIEVE LIDDLE, HAZEL
ALEXANDER, SARA J. HUNTINGTON,
JAMES SHOTZBARGER, FANNIE
BOGLE and FRANKLIN LIDDLE,
heirs at law of E. M. LIDDLE,
and MARY A. LIDDLE, deceased
Defendants

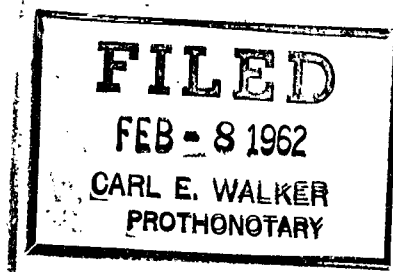
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: No. 182 February Term, 1961
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:

: ACTION TO QUIET TITLE
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You are hereby notified that the testimony in the above
entitled case has been transcribed and lodged with the Prothono-
tary, and that the same will be duly certified and filed so
as to become part of the record, if no objection be made
thereto within fifteen days from this date. Court Order
and Rules of Court will be computed from this date.

February 8, 1962

Pearl B. Connors
Stenographer



NOW, February 8, 1962, the above notice served by
carbon copy on Edward V. Cherry, Esq. of Gleason, Cherry & Cherry,
Esqs., counsel for plaintiffs, and Joseph J. Lee, Esq., counsel
for defendants.

Pearl B. Connors
Stenographer

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDGAR F. BRASSEUR and
MARGARET BRASSEUR,
Plaintiffs

:

: NO. 182 FEBRUARY TERM, 1961

Vs.

: ACTION TO QUIET TITLE

GENEVIEVE LIDDLE; HAZEL
ALEXANDER; SARA J. HUNT-
INGTON; JAMES SHOTZBARGER;
FANNIE BOGLE and FRANKLIN
LIDDLE, heirs at law of
E. M. LIDDLE and MARY A.
LIDDLE, deceased, Defendants

:

:

:

:

The following are admissions contained in the Defendants' answer to the Plaintiffs' Complaint.

18. Denied as stated, and on the contrary it is averred that said S. C. Liddle was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred.

19. Denied as stated, and on the contrary it is averred that the heirs at law of S. C. Liddle were incontinuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred.

20. Denied as stated, and on the contrary it is averred that said David R. Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred.

21. Denied as stated, and on the contrary it is averred that said Joseph Moore was incontinuous, open, visible, notorious and actual possession of the surface only of said premises as

described in Exhibit "A" during the period therein averred.

23. Denied as stated, and on the contrary it is averred that said David R. Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred.

25. Denied as stated, and on the contrary it is averred that said Robert Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred.

26. Denied as stated, and on the contrary the said plaintiffs have been in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A".

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

| | |
|--------------------------------|-------------------------------|
| EDGAR F. BRASSEUR and | : |
| MARGARET BRASSEUR, | : |
| Plaintiffs | : NO. 182 FEBRUARY TERM, 1961 |
| Vs. | : ACTION TO QUIET TITLE |
| GENEVIEVE LIDDLE; HAZEL | : |
| ALEXANDER; SARA J. HUNTINGTON; | : |
| JAMES SHOTZBARGER; FANNIE | : |
| BOGLE and FRANKLIN LIDDLE, | : |
| heirs at law of E. M. LIDDLE | : |
| and MARY A. LIDDLE, deceased, | : |
| Defendants | : |

The following paragraphs of the Plaintiffs' Complaint have been admitted by the Defendant.

9. That Andrew Liddle became the record owner of certain premises situate in Sandy Township, Clearfield County, Pennsylvania, by deed of John Carrier and S. A. Carrier, his wife; dated June 9, 1875 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 126 and by deed of Andrew Wilson and Margaret Jane Wilson, dated January 7, 1859 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 125.

10. That said premises described in Exhibit "A" is a portion of said premises of said Andrew Liddle.

11. That said Andrew Liddle died intestate on May 20, 1899 and left to survive him as his heirs at law his wife, Mary A. Liddle; five children, namely, S. C. Liddle, E. M. Liddle, Fannie May, W. H. Liddle and James A. Liddle; and the heirs of a deceased child, Lizzie Porter.

12. That said Lizzie Porter having predeceased said Andrew Liddle left to survive her as her heirs at law, her husband, W.

A. Porter, and ten minor children; namely, Robert L. Porter, Ruth M. Porter, Mary F. Porter, Sarah D. Porter, William F. Porter, Helen M. Porter, Susan C. Porter, Elizabeth Porter, Frances E. Porter, and Henry P. Porter.

13. That as a result, each of said children of said Andrew Liddle and the heirs of Lizzie Porter, deceased, became vested of 1/6 undivided interest in said premises of said Andrew Liddle.

22. That said Joseph Moore, deceased, left a Will, duly probated, by which he devised said premises described in Exhibit "A" unto David R. Moore.

24. That said David R. Moore, deceased, left a Will, duly probated, by which he devised said premises described in Exhibit "A" unto Robert Moore.

27. That said premises as described in Exhibit "A" has been assessed to said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in abstract of title hereunto attached and marked Exhibit "B" and made a part hereof, from the date of said partition to the present time.

28. That no other person, firm or corporation has been assessed with any portion of said premises as described in Exhibit "A".

29. That the taxes on said premises as described in Exhibit "A" have been paid by said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in said abstract of title marked Exhibit "B", from the date of said partition to the present time.

Service Accepted this Sunday 9 April, 1961
Gerson, Cherry + Cherry
by Anthony S. Gerson

Deeds

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 162 February Term, 1961
Action to Quiet Title

EDGAR F. BRASSEUR ET AL

VS

GENEVIEVE LIDDLE ET AL, heirs
at law of E.M. LIDDLE and MARY
A. LIDDLE, DECEASED

ANSWER and NEW MATTER

TO THE WITHIN NAMED PLAINTIFFS:

You are hereby notified to
reply to the New Matter in the
within Answer within 20 days
from service hereof.

Joseph J. Lee
Attorney for Defendants

JOSEPH J. LEE
ATTORNEY-AT-LAW
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

| | | |
|------------------------------|---|-----------------------------|
| EDGAR F. BRASSEUR and | : | |
| MARGARET BRASSEUR, | : | |
| Plaintiffs | : | |
| | : | |
| VS | : | No. 182 February Term, 1961 |
| | : | |
| GENEVIEVE LIDDLE; HAZEL | : | Action to Quiet Title |
| ALEXANDER; SARA J. HUNT- | : | |
| INGTON; JAMES SHOTZBARGER; | : | |
| FANNIE BOGLE and FRANKLIN | : | |
| LIDDLE, heirs at law of | : | |
| E.M. LIDDLE and MARY A. | : | |
| LIDDLE, deceased, Defendants | : | |

A N S W E R

COME NOW, the defendants in the above entitled action, and by their attorney file this Answer to the Complaint and aver as follows:

(1). Admitted.

(2). Admitted, and in further answer thereto it is averred that Genevieve Liddle is the wife of Edwin Liddle (son of E.M. Liddle and grandson of Mary A. Liddle), and is the sole heir of the said Edwin Liddle by the terms of his Will.

(3). Admitted, and in further answer thereto it is averred that Hazel Alexander is the daughter of E.M. Liddle, deceased, and the granddaughter of Mary A. Liddle, deceased.

(4). Admitted, and in further answer thereto it is averred that Sara J. Huntington is one of four children of Clara Mae Shotzbarger, deceased, and Samuel H. Shotzbarger, deceased, and the granddaughter of E.M. Liddle and great granddaughter of Mary A. Liddle.

(5). Admitted, and in further answer thereto it is averred that James Shotzbarger is the son of Clara Mae Shotzbarger, deceased, and Samuel H. Shotzbarger, deceased, and is the grandson of E.M. Liddle and great grandson of Mary A. Liddle.

(6). Admitted, and in further answer thereto it is averred that Fannie Bogle is the daughter of E.M. Liddle, and granddaughter of Mary A. Liddle.

(7). Paragraph (7) is denied as stated. It is believed that the plaintiffs meant Frederick Liddle rather than Franklin Liddle. Frederick Liddle is the son of E.M. Liddle and grandson of Mary A. Liddle, and resides at 989 Tuttle Avenue, Sarasota, Florida.

(8). Admitted.

(9). Admitted.

(10). Admitted.

(11). Admitted.

(12). Admitted.

(13). Admitted.

(14). Denied as stated, and on the contrary it is averred that E.M. Liddle conveyed his undivided one-sixth interest in the said Andrew Liddle premises to the remaining heirs at law of Andrew Liddle in the following proportions: - 1/36th to Mary A. Liddle, 1/36th to James A. Liddle, 1/36th to W.H. Liddle, 1/36th to Fannie May Liddle, 1/36th to S.C. Liddle, and 1/36th to the heirs of Lizzie Porter.

In further answer thereto it is averred that this deed intended to convey all the right, title and interest of said E.M. Liddle in and to the surface only of the real estate described therein, and that his undivided one-sixth interest in the coal and other minerals including oil and gas underlying the premises therein conveyed was reserved to E.M. Liddle, his heirs and assigns, by the terms thereof.

(15). Denied as stated, and on the contrary it is averred that in 1905 H.B. Powell, guardian of the ten minor children of Lizzie Porter, deceased, petitioned the Orphans' Court of Clear-

field County, Pennsylvania for leave to join in a conveyance of the nature of a partition deed of the property, reserving the coal and other minerals, including the oil and gas, as guardian, with James A. Liddle, W.H. Liddle, Fannie May, and S.C. Liddle. Attached to this petition were proposed descriptions of the property in partition with designations set forth therein as to which of the properties was to be conveyed to the parties to the partition. The ten minor children of Lizzie Porter were awarded separate acreage.

It is admitted that E.M. Liddle was not a party to this deed, and it is averred therefore that his undivided one-sixth interest in the coal and other minerals including the oil and gas underlying any of the properties involved in said deed of partition was not conveyed, altered or otherwise destroyed by virtue of said deed. It is likewise averred that because of the facts set forth in paragraph (16) of this Answer, E.M. Liddle's interest as an heir of Mary A. Liddle, which was an undivided one-sixth of surface and an undivided one-sixth interest (1/36ths) in the coal and other minerals including the oil and gas was not affected, conveyed, partitioned or destroyed by virtue of said deed.

(16). Denied, and on the contrary it is averred that Mary A. Liddle died July 13, 1903, intestate and unremarried, leaving to survive her as her heirs at law S.C. Liddle, E.M. Liddle, Fannie May, W.H. Liddle, James A. Liddle, and the heirs of a predeceased child, Lizzie Porter, and that upon her death E.M. Liddle became the owner of an undivided one-sixth interest in the undivided interest of Mary A. Liddle in the premises conveyed to her and others by E.M. Liddle by deed dated July 9, 1902, and recorded in Deed Book 125, page 275, as referred to in paragraph (14) of this Answer.

(17). Denied, and on the contrary it is averred that as the result of said deed of E.M. Liddle, dated July 9, 1902, to Mary A. Liddle et al and said intestacy of Mary A. Liddle on July 13, 1903, and said partition deed, the said S.C. Liddle became the record owner of an undivided thirtyfive-thirtysixths interest in the surface and an undivided one-sixth interest in the coal and other minerals, including the oil and gas underlying the same, in the premises described in Exhibit "A" attached to the Complaint. It is averred that E.M. Liddle, by virtue thereof, was vested with an undivided one-thirtysixth interest in the surface, being his undivided one-sixth interest of Mary A. Liddle's one-sixth interest acquired by the deed of July 9, 1902 and an undivided one-sixth interest in and to the coal and other minerals, including the oil and gas, underlying the premises described in Exhibit "A". The remaining undivided interest in the coal and other minerals including the oil and gas was vested in the remaining heirs of Andrew Liddle.

(18). Denied as stated, and on the contrary it is averred that said S.C. Liddle was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred, but that he never asserted either by development or capture or by any visible, hostile or other notorious and continuous act any right of possession of^{all} the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(19). Denied as stated, and on the contrary it is averred that the heirs at law of S.C. Liddle were in continuous, open, visible, notorious and actual possession of the surface only of

said premises as described in Exhibit "A" during the period therein averred, but that they never asserted, either by development or capture or by any visible, hostile or other notorious and continuous act any right of possession of^{all}/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(20). Denied as stated, and on the contrary it is averred that said David R. Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred, but that he never asserted either by development or capture or by any visible, hostile or other notorious and continuous act any right of possession of^{all}/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(21). Denied as stated, and on the contrary it is averred that said Joseph Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred, but that he never asserted either by development or capture or by any visible, hostile or other notorious and continuous act any right of possession of^{all}/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(22). Admitted.

(23). Denied as stated, and on the contrary it is averred that said David R. Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred, but

that he never asserted either by development or capture or by any visible, hostile or other notorious and continuous act any ^{all} right of possession of/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(24). Admitted.

(25). Denied as stated, and on the contrary it is averred that said Robert Moore was in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A" during the period therein averred, but that he never asserted either by development or capture or by any visible, hostile or other notorious and continuous act any ^{all} right of possession of/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A" during the period therein averred.

(26). Denied as stated, and on the contrary the said plaintiffs have been in continuous, open, visible, notorious and actual possession of the surface only of said premises as described in Exhibit "A", but until a producing gas well was drilled or about to be drilled wherein the owners of the gas underlying the premises described in Exhibit "A" would share in the proceeds thereof in accordance with a unit operation designation dated November 17, 1960 and filed in the office of the Recorder of Deeds in and for Clearfield County on the Miscellaneous Dockets on January 12, 1961, the plaintiffs never asserted either by development or capture or by any visible, hostile or other notorious or continuous ^{all} act any right of possession of/the coal and other minerals including the oil and gas underlying the premises as described in Exhibit "A".

(27). Admitted, and in further answer thereto it is averred that the minerals including the oil and gas underlying said premises have never been separately assessed.

(28). Admitted, and paragraph (27) of this Answer is incorporated herein by reference.

(29). Admitted, but in further answer thereto the facts set forth in paragraph (27) of this Answer are incorporated herein by reference.

(30). Denied, and on the contrary it is averred that the plaintiffs continue to be the present owners of an undivided thirtyfive-thirtysixths interest in the surface and an undivided one-sixth interest in the coal and other minerals including the oil and gas in, upon or under the premises.

NEW MATTER

(31). E.M. Liddle died intestate on the 13 day of July 1948, without having conveyed during his lifetime either his undivided one-thirtysixth interest in the surface of the premises described in Exhibit "A" or his undivided one-sixth interest or any other interest in the coal and other minerals including oil and gas underlying said premises, leaving to survive him the following persons: - Fannie Liddle Bogle, Hazel Liddle Alexander, Frederick Liddle, Edwin Liddle, and the heirs of Clara Mae Shotzbarger, a predeceased child.

(32). Edwin Liddle died testate in 1953 without having conveyed during his lifetime his interest in either the surface of the premises described in Exhibit "A" or his undivided interest in the coal and other minerals including oil and gas underlying the said premises, which said interest he acquired as an heir at law of E.M. Liddle. Under the terms of his Will his interest therein passed to his widow, Genevieve Liddle.

(33). The heirs of Clara Mae Shotzbarger, who died in 1917 and who would be entitled to claim an interest in the premises as heirs of E.M. Liddle, are Sara J. Huntington, Bessie S. Phillips and James B. Shotzbarger (another son, Edwin J. Shotzbarger having died in 1945 without issue).

(34). Franklin Liddle referred to in paragraph (7) of the Complaint and paragraph (7) of this Answer is the son of Edwin Liddle, deceased, but has no interest in the premises by virtue of the testacy of his father who left everything to his wife, Genevieve Liddle.

(35). The defendants do not know in whom is vested the interest of any of the other heirs of Andrew Liddle in the coal and other minerals including the oil and gas underlying the premises.

(36). Attached hereto and marked Exhibit "1" is a devolution table showing the distribution of the interest of E.M. Liddle in and to the undivided one-thirtysixth interest in the surface and the undivided one-sixth interest in the coal and minerals including the oil and gas underlying the premises described in plaintiffs Exhibit "A".

WHEREFORE, the defendants request the Court to:

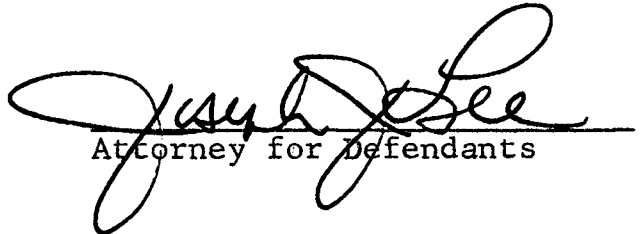
(a). Determine that the rights of the plaintiffs are not superior to the rights of the defendants.

(b). Determine that the defendants have an undivided interest as heirs at law of E.M. Liddle in and to an undivided one-thirtysixth interest to the surface of the premises described in Exhibit "A" and an undivided interest in and to the undivided one-sixth interest of the heirs of E.M. Liddle in and to the coal and minerals including oil and gas underlying the premises described in Exhibit "A" as set forth in Exhibit "1" attached hereto.

(c). Determine that the plaintiffs, their heirs, devisees, administrators, assigns, lessees and any other person, persons, firms, partnerships, or corporate entities in interest be forever barred and enjoined from denying the defendants undivided interest in the title to the surface and the coal and other minerals including oil and gas underlying the premises described in Exhibit "A", and further, from impeaching, denying or in any way attacking the title of the defendants to said surface and coal and other minerals including the oil and gas in, upon or under said premises described in Exhibit "A" as set forth in Exhibit "1" attached hereto.

(d). Grant and decree such other relief as may appear equitable and proper in the circumstances.

And they will ever pray.


Attorney for Defendants

STATE OF PENNSYLVANIA:

:SS

COUNTY OF CLEARFIELD :

SARA J. HUNTINGTON, being duly sworn according to law, deposes and says that the facts set forth in the within Answer are true and correct to the best of her knowledge, information and belief.

Sara J. Huntington
(Sara J. Huntington)

Subscribed and sworn to before

me this / day of April, 1961.

Mrs. Dorothy H. Hile

MRS. DOROTHY H. HILE, Notary Public
CLEARFIELD, CLEARFIELD CO., PA.
My Commission Expires Dec. 3, 1962

EXHIBIT "1"

DEVOLUTION TABLE
45.5992 Ac

E.M. LIDDLE HEIRS
Sandy Township

I. E.M. LIDDLE (d. July 13, 1948) 1/36 surf. 1/6 min.

1. FANNIE BOGLE 1/180 surf. 1/30 min.

2. HAZEL ALEXANDER 1/180 surf. 1/30 min.

3. FREDERICK LIDDLE 1/180 surf. 1/30 min.

4. EDWIN LIDDLE (d. November 3, 1953) 1/180 surf. 1/30 min.

(a). GENEVIEVE LIDDLE (by Will) 1/180 surf. 1/30 min.

5. CLARA MAE SHOTZBARGER (d. Mar. 10, 1917)

(a). SARAH J. HUNTINGTON 1/540 surf. 1/90 min.

(b). BESSIE S. PHILLIPS 1/540 surf. 1/90 min.

(c). JAMES B. SHOTZBARGER 1/540 surf. 1/90 min.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 118-200 TERM, 1961

EDGAR F. BRASSEUR and
MARGARET BRASSEUR,
Plaintiffs

vs.

GENEVIEVE LIDDLE, HAZEL
ALEXANDER; SARA J. HUNTINGTON
JAMES SHOTZBARGER; FANNIE
BOGLE and FRANKLIN LIDDLE,
heirs at law of E. M. LIDDLE
and MARY A. LIDDLE, deceased,
Defendants

ACTION TO QUIET TITLE

TO WITHIN NAMED DEFENDANTS:

You are hereby notified
to plead to the enclosed Com-
plaint within twenty (20)
days from the service hereof.

GLEASON, CHERRY & CHERRY
Attorneys for Plaintiffs
By Edward V. Cherry

FILED
MAR 7 1961

WM. T. HOGGESS
Law Offices
GLEASON, CHERRY & CHERRY
7-10 Dams Building
Du Bois, PENNSYLVANIA
109 N. BRADY STREET

458 Wly

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

134
✓ EDGAR F. BRASSEUR and
✓ MARGARET BRASSEUR,
64 Plaintiffs

NO. 182 Feb TERM, 1961

Vs.

ACTION TO QUIET TITLE

✓
4/ ✓ GENEVIEVE LIDDLE, HAZEL
✓ ALEXANDER; SARA J. HUNTINGTON;
✓ JAMES SHOTZBARGER; FANNIE
3/ BOGLE and FRANKLIN LIDDLE,
heirs at law of ✓ E. M. LIDDLE
and MARY A. LIDDLE, deceased,
Defendants

COMPLAINT

The Plaintiffs, EDGAR F. BRASSEUR and MARGARET BRASSEUR, bring this action to quiet title for the purpose of barring the Defendants, their heirs, devisees, administrators, and assigns, and any other person, persons, firms, partnerships or corporate entities in interest from asserting any right, title, interest or lien in and to all the surface and gas and oil in, upon or under the premises described in Exhibit "A" situate in Sandy Township, Clearfield County, Pennsylvania, and aver the following cause of action.

1. The Plaintiffs, EDGAR F. BRASSEUR and MARGARET BRASSEUR, husband and wife, are individuals who reside at Sandy Township, Clearfield County, Pennsylvania.

2. That Defendant, GENEVIEVE LIDDLE, is an individual who resides at Ebensburg, Cambria County, Pennsylvania.

3. That Defendant, HAZEL ALEXANDER, is an individual who resides at Lansdowne, Delaware County, Pennsylvania.

4. That Defendant, SARA J. HUNTINGTON, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

5. That Defendant, JAMES SHOTZBARGER, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

6. That Defendant, FANNIE BOGLE, is an individual who resides at DuBois, Clearfield County, Pennsylvania.

7. That Defendant, FRANKLIN LIDDLE, is an individual who resides at 4420 North 22nd Street, Apartment 6, Phoenix, Arizona.

8. That said Defendants are the heirs at law of E. M. LIDDLE and MARY A. LIDDLE, deceased.

9. That Andrew Liddle became the record owner of certain premises situate in Sandy Township, Clearfield County, Pennsylvania, by deed of John Carrier and S. A. Carrier, his wife; dated June 9, 1875 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 126 and by deed of Andrew Wilson and Margaret Jane Wilson, dated January 7, 1859 and recorded at Clearfield, Pennsylvania, on January 23, 1877, in Deed Book No. 10, page 125.

10. That said premises described in Exhibit "A" is a portion of said premises of said Andrew Liddle.

11. That said Andrew Liddle died intestate on May 20, 1899 and left to survive him as his heirs at law his wife, Mary A. Liddle; five children, namely, S. C. Liddle, E. M. Liddle, Fannie May, W. H. Liddle and James A. Liddle; and the heirs of a deceased child, Lizzie Porter.

12. That said Lizzie Porter having predeceased said Andrew Liddle left to survive her as her heirs at law, her husband, W. A. Porter, and ten minor children; namely, Robert L. Porter, Ruth M. Porter, Mary F. Porter, Sarah D. Porter, William F. Porter, Helen M. Porter, Susan C. Porter, Elizabeth Porter, Frances E. Porter, and Henry P. Porter.

13. That as a result, each of said children of said Andrew Liddle and the heirs of Lizzie Porter, deceased, became vested of 1/6 undivided interest in said premises of said Andrew Liddle.

14. That said E. M. Liddle conveyed his undivided 1/6 in-

terest to said Andrew Liddle premises to the remaining heirs at law of said Andrew Liddle; namely, Mary A. Liddle, James A. Liddle, W. H. Liddle, Fannie May, S. C. Liddle, Henry P. Porter, Frances E. Porter, Elizabeth Porter, Susan C. Porter, Mary F. Porter, Helen M. Porter, Sarah D. Porter, William F. Porter, Ruth M. Porter and Robert L. Porter, by deed dated July 9, 1902 and recorded at Clearfield, Pennsylvania, in Deed Book No. 125, page 275.

15. Subsequently, said heirs of Andrew Liddle; namely, James A. Liddle, W. H. Liddle, Fannie May, S. C. Liddle, W. A. Porter and H. B. Powell, guardian of Henry P. Porter, Frances E. Porter, Elizabeth Porter, Susan C. Porter, Helen M. Porter, William F. Porter, Sarah D. Porter, Mary F. Porter, Ruth M. Porter, and Robert L. Porter, minor children of Lizzie Porter, deceased, entered into an amicable partition of said premises as evidenced by deed of partition dated April _____, 1905, and recorded at Clearfield, Pennsylvania, on March 4, 1908, in Deed Book No. 165, page 297. Said E. M. Liddle previously having conveyed his undivided 1/6 interest to said Andrew Liddle premises by said deed dated July 9, 1902, and recorded in Deed Book No. 125, page 275 as stated above, did not join in said partition deed.

16. That said Mary A. Liddle, through error, mistake or inadvertence, did not join in said partition deed.

17. That as a result of said partition deed, said S. C. Liddle became the record owner of said premises described in Exhibit "A" hereunto attached situate in Sandy Township, Clearfield County, Pennsylvania, subject to a reservation of all the coal, fireclay, and other minerals in, under, and upon said lands with the right of ingress, egress, and regress to take and remove the same without liability for damages that may be done to the

surface of said land by reason of failure of support.

18. That said S. C. Liddle was in continuous, open, visible, hostile, notorious and actual possession of said premises as described in Exhibit "A" until he died intestate on December 23, 1907 leaving to survive him as his heirs at law, his widow Ruby E. Liddle and two children, namely, Muriel Liddle and Alta Marie Liddle.

19. That said heirs at law of S. C. Liddle, namely, Ruby E. Liddle, Muriel Liddle and Alta Marie Liddle continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until they conveyed said premises to David R. Moore, by their deed dated April 15, 1929 and recorded at Clearfield, Pennsylvania, on October 16, 1931, in Deed Book No. 291, page 403.

20. That said David R. Moore continued in open, visible, hostile, notorious, actual, and continuous possession of said premises described in Exhibit "A", until he conveyed said premises to Joseph Moore by his deed dated October 13, 1931, and recorded at Clearfield, Pennsylvania, on October 16, 1931 in Deed Book No. 299, page 478.

21. That said Joseph Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until his death on April 27, 1944.

22. That said Joseph Moore, deceased, left a Will duly probated by which he devised said premises described in Exhibit "A" unto David R. Moore.

23. That said David R. Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises until his death on June 13, 1948.

24. That said David R. Moore, deceased, left a Will, duly

probated, by which he devised said premises described in Exhibit "A" unto Robert Moore.

25. That said Robert Moore continued in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A" until he conveyed said premises to Margaret Brasseur and Edgar F. Brasseur by his deed dated July 29, 1949 and recorded at Clearfield, Pennsylvania, on August 5, 1949 in Deed Book No. 400, page 133.

26. That said Edgar F. Brasseur and Margaret Brasseur continued and still continue in open, visible, hostile, notorious, actual and continuous possession of said premises described in Exhibit "A".

27. That said premises as described in Exhibit "A" has been assessed to said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in abstract of title hereunto attached and marked Exhibit "B" and made a part hereof, from the date of said partition to the present time.

28. That no other person, firm or corporation has been assessed with any portion of said premises as described in Exhibit "A".

29. That the taxes on said premises as described in Exhibit "A" have been paid by said Edgar F. Brasseur and Margaret Brasseur and their predecessors in title as set forth in said abstract of title marked Exhibit "B", from the date of said partition to the present time.

30. That said Edgar F. Brasseur and Margaret Brasseur continue to be the present owners of said premises subject to the reservation of coal, fireclay and other minerals in, upon, or under said premises as stated above.

WHEREFORE, Plaintiffs request the Court to (a) determine that

their rights are superior to the rights of the Defendants, their heirs, devisees, administrators, and assigns and all other person, persons, firms, partnerships, or corporate entities in interest; (b) that they have fee simple title to the surface and gas and oil in, upon or under said premises described in Exhibit "A", as against all of the Defendants, their heirs, devisees, administrators, and assigns and all other person, persons, firms, partnerships or corporate entities in interest; (c) to enjoin the Defendants, their heirs, devisees, administrators, and assigns and any other person, persons, firms, partnerships or corporate entities in interest from setting up any title to the surface and the gas and oil in, upon or under said premises described in Exhibit "A"; from impeaching, denying, or in any way attacking the title of Plaintiffs to said surface and the gas and oil in, upon, or under said premises described in Exhibit "A"; and grant and decree whatsoever relief as may appear equitable and proper.

And they will ever pray.

GLEASON, CHERRY & CHERRY

By Edward V. Cherry
Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS.

Personally appeared before the undersigned, a Notary Public, in and for the County and State aforesaid, EDGAR F. BRASSEUR and MARGARET BRASSEUR, 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 their knowledge, information and belief.

Edgar F. Brasseur

Margaret F. Brasseur

Sworn to and subscribed before me this 27th day of

February, 1961.

Joseph R. Cherry
Notary Public

My Commission expires Jan. 7, 1963.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows, to-wit;

BEGINNING at a stone corner on line of land of Sarah Zartman; thence by line of land of A. E. Bogle due North 1798.7 Feet to a corner; thence South 89° 35' East 1297.1 Feet to line of land of A. E. Bogle; thence South 1° 1' West 648.7 Feet to a post; thence by line of lands of W. C. Dunlap South 21° 0' West 1035 Feet to old post on line of land of John E. Lines; thence South 79° 12' West 931.2 Feet to place of beginning. Containing 45.5992 acres.

"EXCEPTING AND RESERVING, nevertheless, all the coal, fireclay, and other minerals in, under and upon said lands with the right of ingress, egress and regress to take and remove the same without liability for damage that may be done to the surface of said land by reason of failure of support or otherwise in so doing.

EXHIBIT "B"

ABSTRACT OF TITLE

I.

Robert Moore, Single : DEED
to : Dated July 29, 1949
Edgar F. Brasseur and : Recorded August 5, 1949
Margaret Brasseur, his wife : at Clearfield, Pa., in
45.5992 Acres : Deed Book No. 400, page 133

II.

Robert Moore :
by will of David Moore who :
died on June 13, 1948 :
45.5992 Acres :
WBW 4522

III.

David Moore :
by will of Joseph :
Moore who died on :
April 27, 1944. :
45.5992 Acres :
WBW 4512

IV.

David R. Moore, Single : DEED
to : Dated October 13, 1931
Joseph Moore : Recorded October 16, 1931
45.5992 Acres : At Clearfield, Pa., in
Deed Book No. 299, page 478

V.

Ruby E. Liddle, Widow : DEED
Muriel Liddle, Single : Dated April 15, 1929
Alta Marie Liddle Single : Recorded May 22, 1929
45.5992 Acres : At Clearfield, Pa., in
to : Deed Book No. 291, page 403

David R. Moore

VI.

Ruby E. Liddle :
Muriel Liddle :
Alta Marie Liddle :
heirs at law of S.C. Liddle :
who died on December 23, :
1907 :
45.5992 Acres :

VII.

James A. Liddle and Mary :
Liddle, : DEED
his wife; Fannie E. May and : Dated April , 1905
Peter May, her husband; W.H. : Recorded March 4, 1908
Liddle and Gertrude Liddle, :
his :
wife; W.A. Porter, Widower; : At Clearfield, Pa., in
H.B. Powell, guardian of : Deed Book No. 165, page 297
Robert L. Porter, Mary F. :
Porter, Sarah D. Porter, :
William :

F. Porter, Helen M. Porter,
Susan C. Porter, Elizabeth
Porter, Francis E. Porter,
Henry P. Porter

to

S. C. Liddle
45.5992 Acres

VIII.

E. M. Liddle and Jennie Liddle,
his wife

to

C Mary A. Liddle, James A. Liddle,
W. H. Liddle, Fannie May, S. C.
Liddle, Henry P. Porter, Francis
E. Porter, Elizabeth Porter,
Susan C. Porter, Mary F. Porter,
Helen M. Porter, Sarah D. Porter,
William F. Porter, Ruth M. Porter,
Robert L. Porter

: DEED
: 1/6 interest
: Dated July 9, 1902
: Recorded July 23, 1902
: At Clearfield, Pa., in
: Deed Book No. 125, page 275

IX.

W. A. Porter, Henry P. Porter,
Francis E. Porter, Elizabeth
Porter, Susan C. Porter, Mary
F. Porter, Helen M. Porter,
Sarah D. Porter, William F.
Porter, Ruth M. Porter, and
Robert L. Porter
heirs at law of Lizzie Porter,
daughter of Andrew Liddle, and
E. M. Liddle, S. C. Liddle,
Fannie May, W. H. Liddle, and
James A. Liddle
heirs at law of Andrew Liddle
who died on May 20, 1899

X.

A Andrew Wilson and Margaret Jane
Wilson, his wife

to

Andrew Liddle

: DEED
: Dated January 7, 1859
: Recorded January 23, 1877
: At Clearfield, Pa., in
: Deed Book No. 10, Page 125

XI.

B John Carrier and S. A. Carrier,
his wife

to

Andrew Liddle

: DEED
: Dated June 9, 1875
: Recorded January 23, 1877
: At Clearfield, Pa., in
: Deed Book No. 10, page 126

Sumner County Ct. No. 182-2-61
12-2-61
Wm. T. Hager

| |
|--|
| IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. 182 FEBRUARY TERM, 1961 Action to Quiet Title |
| EDGAR F. BRASSEUR and MARGARET BRASSEUR, Plaintiffs |
| VS. |
| GENEVIEVE LIDDLE; HAZEL ALEXANDER; SARA J. HUNT- INGTON; JAMES SHOTZBARGER; FANNIE BOGLE and FRANKLIN LIDDLE, heirs at law of E. M. LIDDLE and MARY A. LIDDLE, deceased, Defendants |
| REPLY TO ANSWER AND NEW MATTER |
| <div>FILED MAY - 2 1961 WM. T. HAGERTY PROthonOTARY</div> <div>LAW OFFICES GLEASON, CHERRY & CHERRY 7-10 DAMUS BUILDING Du Bois, PENNSYLVANIA 109 N. BRADY STREET</div> |

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDGAR F. BRASSEUR and
MARGARET BRASSEUR,
Plaintiffs

VS.

No. 182 February Term, 1961

GENEVIEVE LIDDLE; HAZEL
ALEXANDER; SARA J. HUNT-
INGTON; JAMES SHOTZBARGER;
FANNIE BOGLE and FRANKLIN
LIDDLE, heirs at law of
E. M. LIDDLE and MARY A.
LIDDLE, deceased,
Defendants

Action to Quiet Title

R E P L Y

And now come the Plaintiffs and by their attorneys, Gleason Cherry & Cherry file this Reply to the Answer in the above entitled matter.

(1). Admitted by Defendants.

(2). Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the averrment that Genevieve Liddle is the sole heir of said Edwin Liddle by the terms of his Will, all means of proof thereof are in the exclusive control of the Defendants, and therefore, said averrment is denied. Plaintiffs demand strict proof thereof at the trial of this case.

(3). Admitted.

(4). Admitted.

(5). Admitted.

(6). Admitted.

(7). Denied, and it is averred that Plaintiffs have rea-

son to believe that Frederick Liddle and Franklin Liddle are two different persons, and also Plaintiffs have reason to believe that Franklin Liddle is the son of Genevieve Liddle.

(8). Admitted by Defendants.

(9). Admitted by Defendants.

(10). Admitted by Defendants.

(11). Admitted by Defendants.

(12). Admitted by Defendants.

(13). Admitted by Defendants.

(14). Denied as stated, and on the contrary it is averred that E. M. Liddle conveyed his undivided 1/6th interest in and to the said Andrew Liddle's premises to the remaining heirs at law of Andrew Liddle in the following proportions: - 1/90th to Mary A. Liddle; 1/90th to James A. Liddle; 1/90th to W. H. Liddle; 1/90th to Fannie Liddle May; 1/90th to S. C. Liddle; 1/90th to Henry P. Porter; 1/90th to Frances E. Porter; 1/90th to Elizabeth Porter; 1/90th to Susan C. Porter; 1/90th to Mary F. Porter; 1/90th to Helen M. Porter; 1/90th to Sarah D. Porter; 1/90th to William F. Porter; 1/90th to Ruth M. Porter; and 1/90th to Robert L. Porter.

In further reply thereto, it is averred that E. M. Liddle by his deed dated July 9, 1902 and recorded at Clearfield, Pennsylvania in Deed Book No. 125, page 275, intended to convey all of his right, title and interest in and to said realty described

in Exhibit "A" of the Complaint, excepting and reserving only the coal, fireclay, and other minerals. The terms of said deed did not specifically or impliedly reserve the gas and oil nor was it the intention of the Grantors to reserve said gas and oil. Therefore, Plaintiffs herein are the present owners of said gas and oil.

(15). Denied as stated, and in further reply thereto it is averred that said deed reserved only the coal, fireclay and other minerals, but did not specifically or impliedly include a reservation of gas and oil; nor was it the intention of the Grantors to reserve said gas and oil. Therefore, Plaintiffs herein are the present owners of said gas and oil.

It is also averred that E. M. Liddle's interest in and to the gas and oil underlying said premises was conveyed by said partition deed because E. M. Liddle, by his deed dated July 9, 1902 and recorded in Deed Book No. 125, page 275, reserved only the coal, fireclay and other minerals underlying said premises, which reservation did not specifically or impliedly include, nor was it intended to include the gas and oil.

It is further averred thereto, that E. M. Liddle's interest as an heir of Mary A. Liddle, deceased, was an undivided 1/6th of an undivided 1/90th interest, or a 1/540th interest, which interest Plaintiffs have acquired by adverse possession as set forth in the Complaint.

(16). Plaintiffs are without knowledge or information

sufficient to form a belief as to the truth of the averrment that Mary A. Liddle died on July 13, 1903, all means of proof thereof are in the exclusive control of the Defendants and therefore, said averrment is denied. Plaintiffs demand proof thereof at the trial of this case.

(17). Denied as stated, and on the contrary it is averred that as a result of said deed of E. M. Liddle, dated July 9, 1902, to Mary A. Liddle, et al, and said partition deed, said S. C. Liddle became the record owner of an undivided 539/540th interest in and to said premises, excepting and reserving only the coal, fireclay and other minerals which reservation did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore, Plaintiffs are the present owners of said gas and oil.

(18). Denied as stated, and on the contrary it is averred that S. C. Liddle was in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said premises described in Exhibit "A" of the Complaint, with the exception of coal, fireclay and other minerals as previously reserved; which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore, Plaintiffs are the present owners of said gas and oil.

(19). Denied as stated, and on the contrary it is averred that the heirs at law of S. C. Liddle were in continuous, open, visible, notorious and actual possession of all outstanding interest in and to said premises described in Exhibit "A" of the Complaint with the exception of the coal, fireclay and other minerals as previously reserved; which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore Plaintiffs are the present

owners of said gas and oil:

(20). Denied as stated, and on the contrary it is averred that David R. Moore was in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said premises described in Exhibit "A" of the Complaint, with the exception of the coal, fireclay, and other minerals as previously reserved; which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore Plaintiffs are the present owners of the gas and oil.

(21). Denied as stated, and on the contrary it is averred that Joseph Moore was in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said premises, described in Exhibit "A" of the Complaint, with the exception of the coal, fireclay, and other minerals as previously reserved; which reservation, however, did not specifically or impliedly include, nor was it intended to include, gas and oil. Therefore Plaintiffs are the present owners of said gas and oil.

(22). Admitted by Defendants.

(23). Denied as stated, and on the contrary it is averred that David R. Moore was in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said premises described in Exhibit "A" of the Complaint, with the exception of coal, fireclay and other minerals as previously reserved, which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore, Plaintiffs are the present owners of said gas and oil.

(24). Admitted by Defendants.

(25). Denied as stated, and on the contrary it is averred, that said Robert Moore was in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said

premises described in Exhibit "A" of the Complaint, with the exception of coal, fireclay and other minerals as previously reserved, which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore, Plaintiffs are the present owners of said gas and oil.

(26). Denied as stated, and on the contrary it is averred that said Plaintiffs have been and continue to be in continuous, open, visible, notorious, and actual possession of all outstanding interests in and to said premises described in Exhibit "A" of the Complaint, with the exception of coal, fireclay and other minerals as previously reserved, which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil. Therefore, said Plaintiffs are the present owners of the gas and oil.

(27). Admitted.

(28). Admitted by Defendants.

(29). Admitted by Defendants.

(30). Denied as stated, and on the contrary it is averred that Plaintiffs continue to be the present owners of all of said premises, including the gas and oil with the exception of coal, fireclay and other minerals as previously reserved, which reservation, however, did not specifically or impliedly include, nor was it intended to include, the gas and oil.

REPLY TO
NEW MATTER

(31). Denied as stated and in reply thereto it is averred that E. M. Liddle died intestate without having conveyed, during his lifetime his 1/540 undivided interest in and to said premises excepting only the coal, fireclay and other minerals which interest, however, has been divested by the adverse possession of Plaintiffs and their predecessors in title as set forth in the Complaint. It is admitted that E. M. Liddle died intestate without having conveyed his undivided 1/6 interest in the coal, fireclay and other minerals; however it is averred that E. M. Liddle did convey his undivided interest in and to the gas and oil underlying said premises by deed dated July 9, 1902 and recorded at Clearfield, Pennsylvania, in deed book No. 125, page 275, because said deed did not specifically or impliedly include a reservation of the oil and gas, nor was it intended to reserve the oil and gas.

(32). Denied and in reply thereto it is averred that Edwin Liddle acquired no interest as an heir at law of E. M. Liddle except an undivided interest in and to the coal, fireclay and other minerals, as reserved, which reservation, however did not specifically or impliedly include, nor was it intended to include, gas and oil, because any other interest which E. M. Liddle may have had has been divested by the adverse possession of Plaintiffs and their predecessors in title as set forth in the Complaint. It is further averred that Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the averrment that Edwin Liddle died testate and that Genevieve Liddle is the sole heir of said Edwin Liddle by the terms of said Will, and all means of proof thereof are in the exclusive control of the Defendants and the said averrments are therefore denied.

Plaintiffs demand proof thereof at the trial of this case.

(33). Denied, and in reply thereto it is averred that the heirs of Clara Mae Shotzbarger would not be entitled to claim any interest in and to said premises as heirs at law of E. M. Liddle, except an interest in and to E. M. Liddle's undivided 1/6th interest in and to the coal, fireclay and other minerals as reserved; any other interest which E. M. Liddle may have had in and to said premises has been divested by the adverse possession of Plaintiffs and their predecessors in title as set forth in the Complaint.

(34). Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the averrments contained in paragraph 34 of the Answer, and all means of proof thereof are in the exclusive control of the Defendants and said averrments are therefore denied. Plaintiffs demand proof thereof at the trial of this case.

(35). Denied as stated and on the contrary it is averred in reply thereto that the other heirs of Andrew Liddle have an undivided interest in the coal, fireclay and other minerals as previously reserved, which reservation however did not specifically or impliedly include, nor was it intended to include the gas and oil. Therefore, said heirs of Andrew Liddle have no interest in and to the oil and gas.

(36). Denied as stated and on the contrary it is averred in reply thereto that the interest of E. M. Liddle in and to said premises described in Exhibit "A" was 1/540th and not 1/36th as alleged by Defendants; which 1/540th interest, however, has been divested by the adverse possession of Plaintiffs and their predecessors in title as stated in the Complaint. It is admitted that E. M. Liddle died possessed of a 1/6th undivided interest in the coal and other minerals as previously reserved, which re-

-3-

ervation, however, did not specifically or impliedly include, nor was it intended to include the gas and oil. And therefore Plaintiffs are the present owners of said gas and oil.

GLEASON, CHERRY & CHERRY

By Edward V Cherry

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Personally appeared before the undersigned, a Notary Public,
in and for the County and State aforesaid, EDGAR F. BRASSEUR and
MARGARET BRASSEUR, who being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Reply are
true and correct to the best of their knowledge, information and
belief.

Edgar F. Brasseur

Margaret Brasseur

Sworn to and subscribed before me this 9th day of

April, 1961.

Joseph L. Cherry
Notary Public

My Commission expires Jan. 7, 1963.

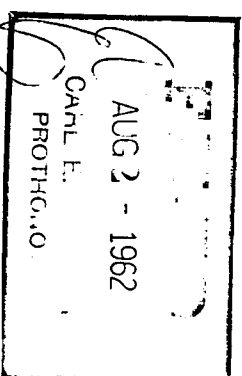
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 182 February Term 1961
ACTION TO QUIET TITLE

EDGAR F. BRASSEUR and
MARGARET BRASSEUR

VS

GENEVIEVE LIDDLE, et al

OPINION and ORDER



JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

³⁴
EDGAR F. BRASSEUR and
⁶⁴MARGARET BRASSEUR

VS

No. 182 February Term 1961

ACTION TO QUIET TITLE

⁴¹
GENEVIEVE LIDDLE, HAZEL
ALEXANDER, SARA³ J. HUNTINGTON,
JAMES³ SHOTZBARGER, FANNIE
BOGLE and FRANKLIN LIDDLE,
heirs at law of E. M. LIDDLE³¹
and MARY A. LIDDLE, deceased.

O P I N I O N

This is an action to quiet title to the surface, and to the natural gas or oil, in, upon, or under, a certain tract of land consisting of 45.5992 acres, situate in Sandy Township, Clearfield County, Pennsylvania, and bounded and described as follows:

BEGINNING at a stone corner on line of land of Sarah Zartman; thence by line of land of A. E. Bogle due North 1798.7 feet to a corner; thence South 89° 35' East 1297.1 feet to line of land of A. E. Bogle; thence South 1° 1' West 648.7 feet to a post; thence by line of lands of W. C. Dunlap South 21° 0' West 1035 feet to old post on line of land of John E. Lines; thence South 79° 12' West 931.2 feet to place of beginning. Containing 45.5992 acres.

With the Complaint, the plaintiffs have filed their Abstract of Title, originating in two larger tracts of land owned by Andrew A. Liddle, acquired by him by deed recorded January 23, 1877.

Andrew A. Liddle died intestate on May 20, 1899, leaving to survive him, his widow, Mary A. Liddle, and five children, namely: S. C. Liddle, E. M. Liddle, Fannie May, W. H. Liddle, James A. Liddle, and the heirs of a sixth child, Lizzie Porter, who died

prior to Andrew A. Liddle, and left ten minor heirs and a husband, W. A. Porter.

E. M. Liddle, one of the children of Andrew A. Liddle, deceased, conveyed, as alleged in the Complaint, his undivided one-sixth interest in the land owned by Andrew A. Liddle, to Mary A. Liddle, his mother, and widow of Andrew A. Liddle, and all his brothers and sisters, including the ten minor children of Lizzie Porter, the deceased sister, on the 9th day of July 1902.

In this deed, E. M. Liddle recites that he conveyed his undivided one-sixth in the Andrew A. Liddle lands, to the persons named, and "excepts and reserves, however, all the coal and other "minerals, lying in, upon, or under the above described land, with "the right of ingress, egress and regress, to enter upon the same, "mine and remove the same, with release of all damages for breaking the surface or diverting streams".

Following this deed, there was a partition of the lands of Andrew A. Liddle, vesting in his widow and heirs, and after the deed of E. M. Liddle, conveying his one-sixth. The partition proceedings was an amicable one. The deed was dated blank day of April 1905, and recorded March 5, 1908.

As a result of the partition of the Andrew A. Liddle lands, 45.5992 acres vested in S. C. Liddle; being the same lands described in the Complaint.

There was a reservation to each of the tracts partitioned, including the land conveyed to S. C. Liddle, as follows:

"Excepting and reserving, nevertheless, all the coal, fireclay and other minerals, in, under and upon said land, with the right of ingress, egress and regress, to take and remove the same without liability for damages that may be done to the surface of said land by reason of failure of support or otherwise in so doing."

The partition deed above mentioned, of April 1905, was recorded on March 4, 1908; and in its general recital, the coal, fire clay and other minerals were reserved to all of the heirs of Andrew A. Liddle.

Mary A. Liddle, the widow, is not mentioned in the partition deed. It appears in the pleadings, that she died, however, on the 13th day of July 1903, some two years before the partition took place.

The defendants named are some of the heirs of E. M. Liddle, son of Andrew A. Liddle, who conveyed his undivided one-sixth in the surface, to the widow of Andrew A. Liddle, his mother, and the other children.

The defendants answer the Complaint, averring at all times, that E. M. Liddle conveyed only his right in and to the surface, and that he retained his interest in all of the minerals, including the gas and oil, which devolved upon the defendants named, as his heirs; and that on the death of Mary A. Liddle, the widow,

there also passed to E. M. Liddle, one-sixth of the one-sixth of the surface he conveyed to his mother, in the deed of July 1902.

Defendants then set up New Matter, claiming one-sixth of one-sixth, in and to the surface of plaintiffs' lands described in the Complaint, together with the one-sixth in all of the minerals, including gas and oil, which they assert devolved upon them as heirs of E. M. Liddle.

The plaintiffs reply to defendants' Answer and to the New Matter, and aver that the gas and oil belongs to the plaintiffs, as the reservation of minerals does not carry with it the gas and oil; nor do the defendants, as heirs of E. M. Liddle, own any right and title therein, to the extent of their several interests.

The Complaint then prays, as provided in the Civil Procedural Rules governing actions to quiet title, that the Court determine the rights of the plaintiffs as against the defendants, and all other person, or persons, in and to the surface and natural gas and oil in, under, or upon the described property; to enjoin the defendants and other persons from bringing any further action, or actions, claims, or attacks, upon the title and right of ownership of the plaintiffs to the surface, as well as the gas and oil, in, under, or upon, the said described lands.

Following the hearing and the introduction of the various and several deeds involved, and identification of the defendants as heirs of E. M. Liddle, the following facts are found:

1. The land set forth in plaintiffs' Complaint, As Exhibit A, and described therein, became vested in the plaintiffs by various and sundry deeds and conveyances, and is a part of two larger tracts of land acquired by Andrew A. Liddle in the years 1859 and 1875, and at the time of the conveyances, the lands were in Brady Township; since which time, that portion of Brady Township has been transferred to Sandy Township.

2. On August 31, 1877, Andrew A. Liddle entered into a lease for the gas, Seneca oil, or petroleum, on a 50 acre piece of ground, designated Defendant's Exhibit D 1/2. This agreement was executed August 31, 1877, and recorded February 14, 1880, in Miscellaneous Docket D, page 426, in the office of the Recorder of Deeds of Clearfield County.

3. Andrew A. Liddle died intestate, on the 20th of May 1899, leaving two tracts of land, as described in the two deeds to him, and made part of the record as Plaintiffs' Exhibits A and B.

4. Surviving Andrew A. Liddle, was his wife, Mary A. Liddle, and six children, as follows: S. C. Liddle, E. M. Liddle, Fannie May, W. H. Liddle, James A. Liddle, and Lizzie Porter.

5. Lizzie Porter, daughter of Andrew A. Liddle, had died intestate, prior to July 9, 1902, but after Andrew A. Liddle, leaving ten minor children surviving her.

6. Mary A. Liddle died July 13, 1903.

7. On the 9th of July 1902, E. M. Liddle, one of the sons of Andrew A. Liddle, deceased, by deed of that date, conveyed his undivided one-sixth of the Andrew A. Liddle lands, to Mary A. Liddle, James A. Liddle, W. H. Liddle, Fannie May, S. C. Liddle, and then named the ten minor children of Lizzie Porter. (Plaintiffs' Exhibit C).

8. In this deed, E. M. Liddle reserved "All of the coal and other minerals lying in, upon or under"

9. By deed dated the blank day of April 1905, and recorded March 4, 1908, in Deed Book 165, page 297, there was an amicable partition of the lands of Andrew A. Liddle, deceased, which partition agreement states that it devised the surface of the Andrew A. Liddle lands, reserving all of the coal and other minerals in or under each parcel conveyed to each heir. (Plaintiffs' Exhibit D).

10. No mention is made of any interest of Mary A. Liddle, deceased widow, in and to the lands as being transferred in the partition proceedings.

11. This partition deed conveyed 45.5992 acres, described by metes and bounds, as described in the plaintiffs' Complaint, to S. C. Liddle, one of the heirs, as his share of the Andrew A. Liddle lands.

12. The land partitioned to S. C. Liddle, the 45.5992 acres above mentioned, and described in the Complaint, passed by sundry conveyances, to the plaintiffs, with the reservation of the coal,

fireclay, and other minerals, with mining rights.

13. None of these conveyances above mentioned, except the agreement designated Defendants' D 1/2, mention any gas or oil.

14. Plaintiffs' Exhibits R, S and T, show E. M. Liddle, in 1920 and 1926, on other lands, reserved the oil and gas, as well as the coal; and E. M. Liddle entered into a gas lease in 1917, and again in 1930.

15. A predecessor in title of the plaintiffs, one Robert Moore, leased the gas in the described lands, in 1930.

16. Other sundry leases of the gas on other and adjoining lands, by other members of the heirs of Andrew A. Liddle, were entered into at various times.

17. The plaintiffs entered into a gas lease with a community group in October 1955, and again July 20, 1960.

18. In the deed of E. M. Liddle, of July 9, 1902, plaintiffs' Exhibit C, in which E. M. Liddle conveyed his undivided one-sixth to his mother and brothers and sisters, he reserved "all the coal and other minerals lying in, upon or under the above described land, with the right of ingress, egress and regress, to enter upon the same, mine and remove the same, etc.", and the usual habendum clause, "to have and to hold the said premises with all and singular, the appurtenances unto the said parties of the second part, their heirs and assigns, to the only proper use, benefit and behoof of the said parties of the second part, their heirs and

assigns forever".

19. In the partition deed of April 1905, plaintiffs' Exhibit D, the same reservation of coal, fireclay and other minerals occurred, and a similar habendum clause.

20. H. B. Powell, Guardian of the minor heirs of Lizzie Porter, a deceased child of Andrew Liddle, presented petitions, Defendants' Exhibits D-3 and D-5, for authority to join as guardian of said minor heirs, in and to the partition deed, and a conveyance to E. M. Liddle, in which H. B. Powell, as guardian, recites that he is guardian of the interest of the Porter children, and asks leave to convey the interest of his wards in and to the real estate, to the person or persons to receive said real estate, and to join in the amicable partition.

QUESTIONS.

The pleadings, and the content of the various and several conveyances, present two questions for determination; *****

(1). Did E. M. Liddle, in his deed of July 9, 1902, to his mother, and brothers and sisters, and the minor children of a deceased sister, as set forth in plaintiffs' Exhibit C, reserve the natural gas to himself, by virtue of the reservation of "all of the coal, fireclay and other minerals lying in, under or upon said land:, and as stated in fact No. 18?

(2). If the gas was not reserved by E. M. Liddle in his deed to his mother and brothers and sisters (Plaintiffs' Exhibit C), have the heirs of E. M. Liddle, named as defendants, lost their right to the gas because of twenty-one years adverse possession thereof in the plaintiffs and their predecessors in the title?

The first question, of whether or not the gas in, upon or under the lands described in plaintiffs' Complaint (Exhibit A), was reserved, must be determined from the character of the exceptions or reservations contained in the deed of E. M. Liddle, grandfather of the defendants, dated July 9, 1902 (Plaintiffs' Exhibit C). In this deed, E. M. Liddle conveyed his undivided one-sixth interest in and to all of the land of which Andrew Liddle, the common ancestor, died seized, in the year 1899.

At the time of the death of Andrew Liddle in 1899, he owned the lands in fee in which the 45.59 acres/^{involved}were included. Following his death, the several conveyances to and among his heirs took place, and in each of these conveyances or transfers, the parties reserved and excepted throughout, in much the same language, "Excepting and reserving, however, all of the coal and other minerals (at times fireclay was included), lying in, upon or under above described lands, with the right of ingress, egress and regress, to enter upon the same, mine and remove the same, with release for damages for breaking the surface or diverting streams."

In the deed of partition to and among the heirs of Andrew Liddle, recorded March 4, 1908, (being Plaintiffs' Exhibit D), each of the tracts conveyed to the heirs, a similar reservation appeared, namely: "All of the coal, fireclay and other minerals in, under and upon said land, etc."

In each of these deeds, particularly the partition deed, (Plaintiffs' Exhibit D), appeared the usual habendum clause, and covenants of quiet enjoyment.

The 49 acre tract in question, in the case at bar, was by this partition deed (Plaintiffs' Exhibit D), conveyed to S. C. Liddle. S. C. Liddle's widow and heirs then conveyed the land to David R. Moore, by deed recorded May 22, 1929, in which the same reservation was contained. Sundry and other conveyances of the land involved, went from David R. Moore to Joseph Moore; by Joseph Moore to David Moore by will; and to Robert Moore by deed of David Moore; and by conveyance to the plaintiffs by the deed of Robert Moore on the 29th day of July 1949, recorded in Deed Book Vol. 400, page 133 (being Plaintiffs' Exhibit I).

In all of these deeds and leases, the reservation is the same as that contained in the original deed of E. M. Liddle on July 9, 1902.

Nowhere, in any of these conveyances in the plaintiffs' chain of title, is the word "gas" included in any exception or reservation; nor is any mention whatsoever made of gas in any conveyance of record in the plaintiffs' chain of title.

The reservations and exceptions of the coal, fireclay and other minerals, do not reserve or except the gas out of the land, to the several grantors in plaintiffs' chain of title. Therefore, the gas in and under the lands described in plaintiffs' Complaint, was not severed from the land, but passed to each successive grantee in the plaintiffs' chain of title, and finally vested in the plaintiffs.

In BUNDY VS. MYERS, 372 Pa. 583, the Supreme Court has stated the rule, on page 585, as follows:

"In construing the reservation, two basic principles of long standing are to be borne in mind: (1) that a reservation in a deed is to be construed most strongly against the grantor: KLAER V. RIDGWAY, 86 Pa. 529, 534, and SHEFFIELD WATER COMPANY V. ELK TANNING COMPANY, 225 Pa. 614, 623-624, 74 A. 742; and (2) that the law of Pennsylvania recognizes the existence of a rebuttable presumption that the word "mineral", when used in a deed reservation or exception, does not include oil or natural gas. See DUNHAM AND SHORTT V. KIRKPATRICK, 101 Pa. 36, 44; SILVER V. BUSH, 213 Pa. 195, 198, 62 A. 832; and PRESTON V. SOUTH PENN OIL COMPANY, 238 Pa. 301, 302, 86 A. 203."

In HIGHLAND VS. COMMONWEALTH, 400 Pa. 261, the rule enunciated in BUNDY VS. MYERS, supra, was again reiterated and discussed at length. The Supreme Court again stated, on page 276:

"In DUNHAM & SHORTT V. KIRKPATRICK, 101 Pa. 36 (decided in 1882) this Court enunciated a rule of construction of the word "minerals" to be applied when determining the inclusion therein or the exclusion therefrom of a natural gas or oil. This decision established a rule of property which was a recognized part of the law of this state when the BYRNE and HALL-KAUL deeds were executed and is a rule upon which the validity of many titles has long since rested. The DUNHAM rule--the existence of which is conceded by the Shawmut group--is based upon the popular conception of the meaning of the word "minerals". The rule may be briefly stated: if, in connection with a conveyance of land, there is a reservation or an exception of "minerals" without any specific mention of natural gas or oil, a presumption, rebuttable in nature, arises that the word "minerals" was not intended by the parties to include natural gas or oil: DUNHAM & SHORTT V. KIRKPATRICK, supra; SILVER V. BUSH, supra; PRESTON, ET AL V. SOUTH PENN OIL COMPANY, ET AL., 238 Pa. 301, 86 A. 203; BUNDY V. MYERS, 372 Pa. 583, 94 A. 2d. 724."

And in a note thereto, on page 277, it is stated:

"A rule of property long acquiesced in should not be overthrown except for compelling reasons of public policy or the imperative demands of justice": SMITH V. GLEN ALDEN COAL CO. ET AL., 347 Pa. 290, 302, 32 A. 2d 227."

The conclusion that E. M. Liddle did not regard gas as a mineral, or intend the gas to be reserved under the reservation as worded by him in his deed of July 9, 1902 (Plaintiffs' Exhibit C), is strengthened when examination of conveyances made by him, as set forth in Plaintiffs' Exhibits W and X, is made. In these, E. M. Liddle leased the gas and oil on a 33 1/2 acre tract, which had been conveyed to him under Plaintiffs' Exhibit D-2, by the other heirs of Andrew Liddle, in which the same reservation of coal, fireclay and other minerals was contained, with no mention of gas. Further, E. M. Liddle, in 1920, conveying a portion of the 33 1/2 acre tract acquired by him from the heirs of Andrew Liddle, in

excepting and reserving the minerals, used the words "oil and gas", and later, in creating a tenancy in entireties of the minerals in the Andrew Liddle tracts, he conveyed his undivided interest in the coal and other minerals, without mentioning the oil and gas, to a straw man, and a deed back to himself and wife as tenants by entireties. In the 33 1/2 acre tract which he had acquired from the Andrew Liddle heirs, in which the reservation was only coal and other minerals, he did lease the gas and oil, reserving the gas along with the other minerals. This clearly indicated that E. M. Liddle did not regard gas as being included within the minerals, coal and clay, when he made his reservations and exceptions in the conveyances made by him to the heirs of Andrew Liddle.

Therefore, the gas in, upon and under the land involved in this action, passed into the plaintiffs. The defendants only right therein, is that they acquired as heirs of E. M. Liddle, and thereby, inherited E. M. Liddle's fractional share of the interest of Mary A. Liddle, as conveyed to her by E. M. Liddle, in the deed set forth in Exhibit C.

The defendants assert that if E. M. Liddle conveyed a 1/6th interest in the Andrew Liddle Estate to his mother, the widow of Andrew Liddle, and his brothers and sisters, the heirs of Andrew Liddle, Mary Liddle took an undivided 1/36th. Plaintiffs contend the interest these heirs took is in a 1/90th.

Whether or not E. M. Liddle inherited 1/6th of his mother's 1/36th interest, or a 1/90th interest in his mother, these defendants, heirs of E. M. Liddle, have lost their right or interest in and to the gas, because of the passage of twenty-one years since their right to the gas accrued, without any action upon their part to assert or contest the open, notorious and hostile possession of the land, and the claim of the plaintiffs and their predecessors, to the land and everything in, upon, or under it, except the coal and fireclay.

As early as KIER VS. PETERSON, 41 Pa. 357, the principle is announced that oil and gas are minerals, though not commonly spoken of as such, and while in place, are part of the land, and like other minerals within the bounds of the freehold, they belong to the owner in fee, or his grantee, so long as they remain part of the property.

Although the gas, oil and other minerals can not be used until severed from the freehold, the owner, nevertheless, has an ownership which he can sell, and will otherwise, lose only by leaving their property. HAMILTON VS. FOSTER, 272 Pa. 95; BURNER ESTATE, 363 Pa. 552; ERIE CITY VS. PUBLIC SERVICE COMMISSION, 278 Pa. 512. This doctrine was recently reiterated and followed in WHITE VS. NEW YORK STATE NATURAL GAS CORP., 190 Fed. Supp. 342, 346.

Thus when the heirs of S. C. Liddle conveyed the described land to David R. Moore on the 15th of April 1929 (Plaintiffs' Exhibit E), with the reservation of the coal and fireclay only, the gas passed with the land from David R. Moore to Joseph Moore, etc., and finally vested in the plaintiffs by deed of Robert Moore (Plaintiffs' Exhibit I).

However, David R. Moore, in 1930, executed a gas lease for the gas on the premises in question, as evidenced by Plaintiffs' Exhibit U.

The plaintiffs executed a gas lease in October of 1955 (Plaintiffs' Exhibit P), and later, in 1960 (Plaintiffs' Exhibit Q).

These gas leases are an assertion of the ownership of the gas, first by David R. Moore, and then by the plaintiffs. Certainly the execution of the lease in 1930, being a matter of record, would indicate to all the world that David R. Moore claimed and asserted ownership of the natural gas in and to the lands described, which was passed along to the plaintiffs by his deed to the plaintiffs.

However, the right or claim to the gas in this tract of land, came into existence immediately upon the recording of the deed of E. M. Liddle to his mother. The right to the gas came into being in the execution and delivery of the partition deed (Exhibit D), in the year 1905, or when recorded in the year 1908. In this period of time, David R. Moore asserted ownership of the gas, as did the

plaintiffs; but not until the filing of this action, on March 2, 1961, did the defendants assert their claim thereto, in filing their Answer to the Complaint. The latest date in which the ownership of the gas became questionable, was when David R. Moore, in 1930, in Exhibit U, leased the gas. The possession of the gas in S. C. Liddle, by virtue of the deed in 1905, continued in the successive grantees until it reached the plaintiffs.

Adverse possession may be transferred from one owner to another, provided the possession of the predecessor in title to the land, is the same as that claimed by the one asserting his rights by adverse possession. GERHART VS. HILSENBECK, 164 Superior 85. On page 88 it is stated:

"a succession may be kept up by tacking possessions; but each succeeding occupant must show title under his predecessor, so as to preserve a unity of possession."

The conclusion, therefore, is that the defendants have no claim in or to the natural gas in the 45.5992 acres of land described in Exhibit A as attached to plaintiffs' Complaint.

O R D E R

NOW, August 2, 1962, it is hereby ORDERED, ADJUDGED AND DECREED that all of the gas in, upon or under, all those certain lands situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

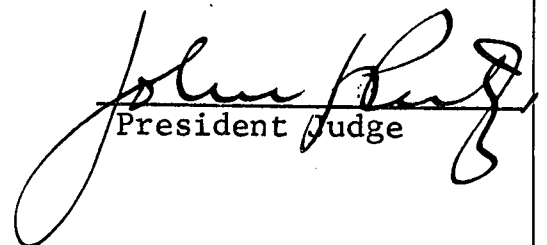
BEGINNING at a stone corner on line of land of Sarah Zartman; thence by line of land of A. E. Bogle due North 1798.7 feet to a corner; thence South 89° 35' East 1297.1 feet to line of land of A. E. Bogle; thence South 1° 1' West 648.7 feet to a post; thence by line of lands of W. C. Dunlap South 21° 0' West 1035 feet to old post on line of land of John E. Lines; thence South 79° 12' West 931.2 feet to place of beginning. Containing 45.5992 acres.

is owned by the plaintiffs, and the defendants or any of their successors or assigns, have no right, title, or claim therein or thereto.

Judgment in favor of Edgar F. Brasseur and Margaret Brasseur, his wife, is hereby directed to be entered, and against the named defendants. Defendants to pay all the costs.

Exception noted.

BY THE COURT


President Judge