

DOCKET NO. 173

NUMBER	TERM	YEAR
<u>501</u>	<u>February</u>	<u>1961</u>

Benjamin T. Phillips, Jr.

VERSUS

A. F. Petrusky and Lena Petrusky,

and Andrew F. Petrusky, their

heirs and assigns

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

11
BENJAMIN T. PHILLIPS, JR.

VS

No. 50/ February Term, 1961

19
A.F. PETRUSKY, LENA PETRUSKY
and ANDREW F. PETRUSKY, JR. 65
their heirs and assigns 15

QUIET TITLE

C O M P L A I N T

(1). The name of the Plaintiff is Benjamin T. Phillips, Jr., an individual residing in the Borough of Brisbin, Clearfield County, Pennsylvania.

(2). The names of the Defendants are A.F. Petrusky, Lena Petrusky, and Andrew F. Petrusky, Jr., their heirs and assigns. Plaintiff believes, and therefore avers, that the said A.F. Petrusky is deceased and any interest which he might claim in the premises which are the subject of this action would have passed to his widow and son, Defendants Lena Petrusky and Andrew F. Petrusky, Jr., who reside at 1621 Fiat Street, Pittsburgh 10, Pennsylvania.

(3). Plaintiff purchased from Mary Christoff and William Christoff, her husband, February 5, 1944, the following described premises:

All that certain lot or piece of ground situate in the Borough of Brisbin, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at the corner of Swoope Street and Albion Avenue; thence east along said Swoope Street thirty-five (35) feet to land of T.I. Humes; thence along land of T.I. Humes south 37 degrees west to the right of way of Goss Run Branch of the Tyrone and Clearfield Branch of the Pennsylvania Railroad; thence along the line of said Railroad, sixteen and one-half (16½) feet from the center to Albion Avenue; thence along Albion Avenue to post on Swoope Street and place of beginning, and being known as part of Lot No. 210 in the general plan of said Borough.

This sale is represented by a deed recorded in Clearfield County Deed Book 356, Page 494. A copy of said deed is attached hereto and incorporated herein.

(4). It is averred the Plaintiff purchased the foregoing property in good faith, giving valuable consideration therefor and expecting to receive marketable title thereto.

(5). Either the Plaintiff or his predecessors in title have been in open, notorious and continuous possession of the premises, adverse to the claim of the Defendants, for a period exceeding 35 years.

(6). Plaintiff has recently been informed that the said Lena Petrusky and Andrew F. Petrusky, Jr., assert title to a certain undivided interest in said premises.

(7). Plaintiff denies the said Lena Petrusky and Andrew F. Petrusky, Jr. have any interest in said premises, and avers that if they did have any interest, the same was extinguished by adverse possession.

WHEREFORE, Plaintiff brings this action and prays the Court to decree title to the property in Plaintiff, free and clear of any liens or demands of the Defendants, their heirs and assigns.

SMITH, SMITH & WORK


BY 
Attys. for Plaintiff

STATE OF PENNSYLVANIA:

SS

COUNTY OF CLEARFIELD :

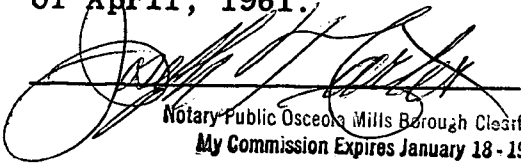
BENJAMIN T. PHILLIPS, JR., being duly sworn according to law, deposes and says he is the Plaintiff in the foregoing Complaint, and the facts set forth therein are true and correct to the best of his knowledge, information and belief.


(Benjamin T. Phillips, Jr.)

Sworn and subscribed to

before me this 12 day

of April, 1961.


Notary Public Osceola Mills Borough Clearfield Co.
My Commission Expires January 18 - 1963

This Deed.

Made the **F I F T H** day of **F E B R U A R Y** in the year **Nineteen**
Hundred and FORTY-FOUR,

Between **MRS. MARY CHRISTOFF** and **WILLIAM CHRISTOFF**, her husband, of
Woodward Township, Clearfield County, Pennsylvania, Grantors, and
BENJAMIN T. PHILLIPS, JR., of Hopzdale Borough, Clearfield County,
Pennsylvania, Grantee

Witnesseth, that in consideration of One (\$1.00) Dollar and other valuable
consideration

in hand paid, the receipt whereof is hereby acknowledged, the said grantor \$ **80**

Dollars.

hereby grant and convey to the said grantee

All the right, title and interest of Mrs. Mary Christoff in and all
that certain lot or piece of ground situate in the Borough of Briggs,
County of Clearfield, and State of Pennsylvania, bounded and described
as follows:

BEGINNING at the corner of Swoope Street and Albion Avenue;
thence East along said Swoope Street thirty-five (35) feet
to land of T. I. Humes; thence along land of T. I. Humes
South 37° West to the right of way of Goss Run Branch
of the Tyrone and Clearfield Branch of the Pennsylvania
Railroad; thence along the line of said Railroad, sixteen
and one-half (16 1/2) feet from the center to Albion
Avenue; thence along Albion Avenue to post on Swoope Street
and place of beginning, and being known as part of Lot
No. 210 in the general plan of said Borough.

Being the same premises conveyed by Benjamin Phillips, Sr.
et al., to Benjamin T. Phillips, the grantee herein, and
Mrs. Mary Christoff as joint tenants, by deed dated November
30, 1936, recorded at Clearfield, Pennsylvania, in Deed Book
314, page 121, it being the intention of the parties hereto
to vest the title of said premises, in fee, in the said
Benjamin T. Phillips, Jr. Grantee.

And the said grantors, do hereby covenant and agree to and with the said grantee that they, the grantors, their heirs, executors and administrators shall and will generally Warrant and forever Defend the herein above described premises, with the hereditaments and appurtenances, unto the said grantee his heirs and assigns against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

In Witness Whereof said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

L. L. McClinton
John J. McClinton

(Mrs. Mary Christoff)

(William Christoff)

State of PENNSYLVANIA

County of CLEARFIELD

On this, the 6th day of MARCH, 1944, before me L. L. McClinton, a Notary Public, the undersigned officer, personally appeared MRS. MARY CHRISTOFF and WILLIAM CHRISTOFF, her husband known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

ROTARY PUBLIC

My Commission Expires March 9, 1947

Title of Officer

I Hereby Certify that the precise residence of the grantee or grantees is

Houtzdale Borough, Clearfield County, Penna.

356
494

Deed

MRS. VARY CHRISTOFF, et al.

-TO-

BENJAMIN F. PHILLIPS, JR.

Warranty

350 f. m.

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

No. 1960 Feb. Term, 1960

Quiet Title

BENJAMIN T. PHILLIPS, JR.

VS

A.F. PETRUSKY and LENA
PETRUSKY, AND ANDREW F.
PETRUSKY, THEIR HEIRS AND
ASSIGNS

COMPLAINT

TO THE WITHIN DEFENDANTS:

You are hereby required to
file defensive pleadings to
the within Complaint within
twenty days from service
hereof.

SMITH, SMITH & WORK

BY

W. T. Hagerity
Attys. for Plaintiff

FILED
APR 14 1961
WM. T. HAGERITY
PROTHONOTARY
SMITH, SMITH & WORK
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

Lap-over Margin

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

Benjamin T Phillips Jr.

No 50I Feb Term 196I

vs

A. F. Petrusky and

Lena Petrusky and

Andrew F Petrusky

Their Heirs and Assigns

Complaint Quiet Title

(Sheriff,s Return)

Now, April 14, 196I Deputized th e Sheriff of Alleghany County to serve the within Complaint , Quiet Title. upon A. F. Petrusky and Lena Petrusky and Andrew F Petrusky, their heirs and assigns.

Now, April 18, 196I served the within Complaint, Quiet Title upon A.F. Petrusky and Lena Petrusky and Andrew F Petrusky their heirs and assigns by deputizing the Sheriff of Alleghany County. The return of service of William H Davis, Sheriff Of Alleghany County is hereto attached and made part of this return of service.

Sheriff Ammerman \$6.00

Sheriff Of Alleghany County \$12.60

Pd. By atty

So Answers

Charles G. Ammerman
Charles G. Ammerman
Sheriff

Sworn to before me this 24th
day of April 196I A.D.

Wm. T. Hagerty
Prothonotary.



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

Given under my hand and seal this 14th day of April
A. D. 19 61.

Charles C. Ammerman
Sheriff.

The Commonwealth of Pennsylvania
ALLEGHENY COUNTY

ss.:

Personally appeared before me, Melvin Mehl a Deputy for
William H. Davis, Sheriff of Allegheny County, Pennsylvania, who being duly sworn according to law,
deposed and says that on the 18th. day of April 19 61 at 11:35 A.M. he served
Lena Petrusky

at No. 1621 Fiat Street, Pittsburgh 10.
correct
Allegheny County, Pennsylvania, with a true and ~~attested~~ copy of the within ~~with~~ Complaint
to Quiet Title No. 501 February Term 1961
by handing the same to and leaving with Lena Petrusky, personally

and making known to her
the contents thereof.

The sum of \$12.60 Sheriff
Davis costs paid.

Melvin Mehl
Deputy Sheriff, Allegheny County, Pennsylvania.

Sworn and subscribed to before me this 22nd.
day of April, 1961.

Leonard H. McMILLAN
Notary Public.
LEONARD H. McMILLAN, Notary Public
Carnegie, Allegheny County, Pa.
My Commission Expires April 29, 1963

So Answers

William H. Davis
Sheriff, Allegheny County, Pennsylvania



Sheriff of Clearfield County

CLEARFIELD, PA., April 14, _____, 19 61

Andrew F. Petrusky

February Term, 1961

No. 501

To the Sheriff of Alleghany County:

Enclosed please find writ Complaint Quiet Title

to be served upon Lena Petrusky and Andrew F. Petrusky at

I62I Fiat Street, Pittsburg 10. Pa. _____ in your County.

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

Yours truly,

Charles G. Ammerman

Sheriff.

The Commonwealth of Pennsylvania
ALLEGHENY COUNTY

} ss.:

Personally appeared before me, Melvin Mehl a Deputy for
William H. Davis, Sheriff of Allegheny County, Pennsylvania, who being duly sworn according to law.
deposed and says that on the 18th. day of April 19 61 at 11:35 A.M. he served

Andrew F. Petrusky, at his place of residence,

at No. 1621 Fiat Street, Pittsburgh 10,
correct
Allegheny County, Pennsylvania, with a true and ~~correct~~ copy of the within ~~with~~ Complaint
to Quiet Title, No. 501 February Term 1961,

by handing the same to and leaving with Lena Petrusky, an adult member of his
family with whom he resides,

and making known to her

the contents thereof.

The sum of \$12.60 Sheriff
Davis costs paid.

Melvin Mehl

Deputy Sheriff, Allegheny County, Pennsylvania.

Sworn and subscribed to before me this 22nd.

day of April, 19 61.

Leonard H. McMullen

Notary Public.

So Answers

William H. Davis

Sheriff, Allegheny County, Pennsylvania

LEONARD H. McMULLEN, Notary Public
Corryville, Allegheny County, Pa.
My Commission Expires April 29, 1963

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN T. PHILLIPS, JR.

VS

No. 501 February Term, 1961

A.F. PETRUSKY, LENA PETRUSKY

In Quiet Title

and ANDREW F. PETRUSKY, JR.,
their heirs and assigns

PARECIPE FOR DEFAULT JUDGMENT

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Enter judgment in favor of the Plaintiff and against the Defendants for failure to file an appearance or answer within twenty days after personal service of the Complaint.

SMITH, SMITH & WORK

BY

William V. Smith
Attys. for Plaintiff

Dated: May 12, 1961

THIRTY-NINE, NINETEEN SIXTY-ONE, MAY TWENTY TWO, 1961

NOTARY PUBLIC

STATE OF TEXAS

THE STATE OF TEXAS

COUNTY OF DALLAS

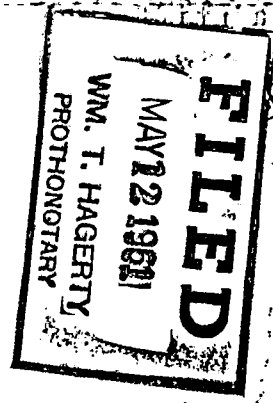
and on this day appeared before me the undersigned, a Notary Public in and for the State of Texas, the following persons:

WILLIAM T. HAGERTY, known to me to be the person whose name is subscribed to the foregoing instrument, and

and he acknowledged to me that he executed the foregoing instrument for the purposes and consideration therein expressed.

WITNESSED my hand and the seal of my office this

Wm. T. Hagerty



NOTARY PUBLIC

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN T. PHILLIPS, JR.

15 VS 65

A.F. PETRUSKY, LENA PETRUSKY
and ANDREW F. PETRUSKY, JR.,
their heirs and assigns

No. 501 February Term, 1961

Quiet Title

PRAECIPE FOR FINAL JUDGMENT

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

A Decree in the above action having been made on or about May 22, 1961, and more than thirty days having elapsed since entry thereof, you are directed to enter final judgment in favor of the Plaintiff in the above captioned matter pursuant to Pennsylvania Rules of Civil Procedure.

SMITH, SMITH & WORK

BY W. U. Smith
Attys. for Plaintiff

Dated: August 30, 1961

10 10 1961

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSED MY HAND AND SEAL OF OFFICE

AT WILMINGTON, DELAWARE, this _____ day of _____, 1961.

SIG:

A review of the above captioned matter was made on or about May 23, 1961, and none of the thirty days having elapsed since entry thereof, you are directed to enter final judgment in favor of the Plaintiff in the above captioned matter pursuant to Pennsylvania Rules of Civil Procedure.

WITNESSED MY HAND AND SEAL OF OFFICE
AT WILMINGTON, DELAWARE, this _____ day of _____, 1961.

Dated: August 30, 1961

2.00 by Office
FILED
AUG 30 1961
WM. T. HAGERTY
PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN T. PHILLIPS, JR.

VS

A.F. PETRUSKY, LENA PETRUSKY
and ANDREW F. PETRUSKY, JR.,
their heirs and assigns

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:
:
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:
:

No. 501 February Term, 1961

Quiet Title

M O T I O N

AND NOW, the 22nd day of May, 1961, comes Smith, Smith & Work, Attorneys for the Plaintiff, and moves the Court to enter final judgment for the premises described in the above captioned matter in favor of the Plaintiff and against the Defendants, it appearing said Complaint having been personally served upon the Defendants April 18, 1961, and thirty days has elapsed since the service of said Complaint and no answer or appearance having been entered.

SMITH, SMITH & WORK

BY



Attys. for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN T. PHILLIPS, JR.

VS

A.F. PETRUSKY, LENA PETRUSKY
and ANDREW F. PETRUSKY, JR.,
their heirs and assigns

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No. 501 February Term, 1961

Quiet Title

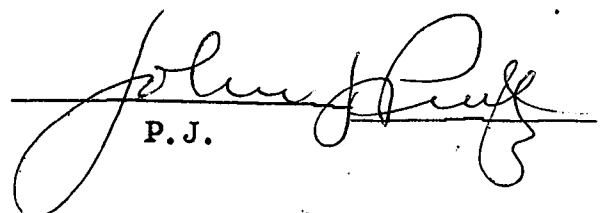
O R D E R

AND NOW, the 22nd day of May, 1961, on consideration of the attached Motion and it appearing to this Court that Complaint has been personally served on the Defendants April 18, 1961, and no answer or appearance has been filed thereto, IT IS HEREWITH ORDERED AND DECREED that title to the following described premises is herewith vested in Benjamin T. Phillips, Jr., free and clear of any claims of the Defendants whatsoever, and their heirs and assigns:

All that certain lot or piece of ground situate in the Borough of Brisbin, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at the corner of Swoope Street and Albion Avenue; thence east along said Swoope Street thirty-five (35) feet to land of T.I. Humes; thence along land of T.I. Humes South 37 degrees west to the right of way of Goss Run Branch of the Tyrone and Clearfield Branch of the Pennsylvania Railroad; thence along the line of said Railroad, sixteen and one-half (16½) feet from the center to Albion Avenue; thence along Albion Avenue to post on Swoope Street and place of beginning, and being known as part of Lot No. 210 in the general plan of said Borough.

BY THE COURT


P.J.

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

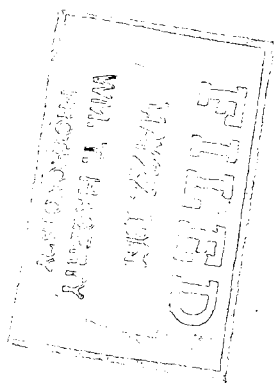
No. 501 Feb. Term, 1961
Quiet Title

BENJAMIN T. PHILLIPS,
JR.

VS

A. F. PETRUSKY, LENA
PETRUSKY and ANDREW
F. PETRUSKY,

MOTION and ORDER



Wm. T. Phillips

SMITH, SMITH & WORK
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

Lap-over Margin