SEP 18 1992

DAV. CO. CHANCERY COURT
I hereby certify that this is a true copy of original instrument filed in my office.
This 19th day of January 1993
CLAUDIA C. BONNYMAN Clerk & Master
By Judy Carnegie Deputy Clerk

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

Sarah Baugh Lewis
Plaintiff

vs.

All Unknown Heirs at Law
of Austin Baugh, Deceased
Defendants

Docket No.: 92-600-III

ORDER FILED & ENTERED SEP 24 1992
MINUTE BOOK 72 PAGE 347

FINAL DECREE

This cause came on to be heard this the 27th day of August, 1992, before the Honorable Robert Brandt, Chancellor, Chancery Court of Davidson County, Tennessee, Part III, upon a complaint to establish complete ownership of real property by prescription and/or adverse possession, and/or by inheritance and/or by devise filed by the plaintiff, Sarah Baugh Lewis, in respect to real property located at 3008 and 3010 Clifton Avenue, Nashville, Davidson County, Tennessee. The complaint was filed against all unknown heirs-at-law of Austin Baugh, Deceased. The cause was submitted to the Court on the complaint of the plaintiff, proof of publication, the answer of the unknown defendants, through their guardian ad litem, a report of the guardian ad litem, and statement of counsel before the Court, and the Court being well and sufficiently advised, finds that the allegations contained in the plaintiff's complaint are true and correct, and that the plaintiff is entitled to the relief she seeks in this cause.

The Court specifically finds that upon the death of the Plaintiff's natural mother, Minnie Baugh Bates, who was the sister of Austin B. Baugh, when the plaintiff was merely three years old, Austin B. Baugh took the plaintiff in his home, and along with his wife, Clara Davis Baugh, reared the Plaintiff from the time of her infancy to her adulthood, and in all respects treated the Plaintiff as their only child. In fact, Austin Baugh and Clara Baugh were the only parents that the plaintiff ever knew. Throughout her life,

Austin and Clara Baugh openly declared the plaintiff as their child.

On or about November, 1944, the said Austin B. Baugh purchased real property now known as 3008 and 3010 Clifton Road, Nashville, Tennessee. That at the time of the purchase of said real property in 1944, Austin B. Baugh purchased said land in his name exclusively. It was always his intent, however, to subsequently put his wife's name on the deed, but he never carried out this intent. During his lifetime, the said Austin B. Baugh and his wife, the said Clara Davis Baugh, secured several mortgages on said property. Both Austin B. Baugh and Clara Davis Baugh utilized their personal funds to pay off these mortgages, and otherwise placed improvements on the real property.

That on or about June, 1966, the said Austin B. Baugh died intestate, leaving as his heirs at law his wife, Clara Davis Baugh, and the Plaintiff herein. Austin B. Baugh also had a brother, Oliver Baugh, who may or may not have been alive at the time of Austin's death. However, whenever Oliver Baugh died, it is believed that Oliver died without a wife or issue alive at his death. The time of death of Oliver Baugh is uncertain because Oliver very seldom, if ever, visited his brother, Austin, during his life time, and has never made a claim of interest in Austin's real property after Austin's death, even though, if alive, he suffered no disability to make such a claim. Other than Clara Davis Baugh, Austin's wife, and herself, the plaintiff knows of no other sibling or other relatives of Austin Baugh who were alive at the time of Austin Baugh's death. For many years plaintiff has never heard from or seen any relatives that were kin to Austin Baugh, even though she has made efforts to locate such relatives. Plaintiff has concluded that all such relatives are dead. Upon careful investigation, the Guardian Ad Litem has not been able to identify or know the whereabouts of any other living relatives of Austin Baugh, deceased.

After the death of Austin B. Baugh in 1966, his widow, Clara Davis Baugh, continued to live on the property and treated the

property as her own by making substantial improvements on the property and openly declaring the property as her own. Since the death of Austin B. Baugh, Clara Davis Baugh openly, notoriously, exclusively, continuously, visibly, hostilely, and adversely claimed and has actively possessed and held the real property located at 3008 and 3010 Clifton Road, Nashville, Tennessee as her own to the exclusion of all others for over twenty years, until her death on or about August, 1986. The said Clara Davis Baugh erected shrubbery fences around the property, replaced the roof, and made other numerous repairs on the property for over the said twenty years. She often declared that she was the sole owner of the property. The said widow further paid all property taxes on the property for over twenty years. During the entire twenty-two years that Clara Baugh lived on the property after her husband's death, no relative of Austin Baugh, deceased, ever made a claim of interest in the property or ever came to visit with Mrs. Baugh.

Upon the death of Clara Davis Baugh, in August, 1966, she left a Will devising "to my daughter, Sarah Baugh Lewis" all of her property, of "every nature and kind". Said Last Will and Testament is recorded in Will Book 156, Page 562, Davidson County Probate Court Clerk's Office, Nashville, Tennessee, and attached to plaintiff's complaint. Since the death of Clara Davis Baugh the Plaintiff, Sarah Baugh Lewis, has openly, notoriously, exclusively, continuously, visibly, hostilely, and adversely claim and has possessed and held the property located at 3008 and 3010 Clifton Road, Nashville, Tennessee, as her own to the exclusion of all others, paying property taxes on said real property for the last six years and otherwise spending money on the upkeep of the property, including the demolition of a small house situated on 3008 Clifton Road.

Since the death of Clara Davis Baugh, no alleged relative of Austin B. Baugh, deceased, or any one else, has ever claimed or made inquiries about said real property. In fact, the Plaintiff believes and avers that, with the exception of herself, all possible heirs at law of Austin B. Baugh are dead.

Pursuant to the filing of the complaint in this case by the

plaintiff to secure a fee simple title, an Order of Publication was issued by the Clerk and Master of the Chancery Court for Davidson County, Tennessee on February 26, 1992. The publication of this notice for possible unknown heirs appeared in the Nashville Record for four (4) consecutive weeks beginning March 5, 1992. Neither the plaintiff or the Guardian ad litem has received any response to this notice as of this date.

CONCLUSIONS

Based on the foregoing facts, which are agreed upon by the plaintiff and the Guardian ad litem, that at the time of the death of Clara Davis Baugh, widow of Austin Baugh, she had acquired a fee simple interests in the property formerly owned by her husband by way of inheritance and/or by way of prescription and/or by way of adverse possession.

If Oliver Baugh was alive at the time of his brother's death, or if any other siblings or their heirs were alive, it would appear that Clara Davis Baugh's conduct in respect to the property, subsequent to her husband's death, over a period in excess of twenty years, established her interest in the property through prescription or through adverse possession by taking complete possession and ownership dominion over the property. This is particularly true in light of the fact that no relative of Austin Baugh has shown any interest in the property or has made a claim in respect to the property. Mrs. Baugh's conduct in exclusively paying the taxes over twenty-two years until her death and otherwise expending large sums of money on the maintenance of the property without accounting to anyone in regard to same, demonstrates her intent of total ownership of the property. Mrs. Baugh's attitude of complete ownership of the property was further demonstrated by the fact that she devised the property to her daughter, Sarah Baugh Lewis, by will. If Oliver Baugh was dead at the time of Austin's death, and no other siblings or their heirs were alive, then Clara Davis Baugh acquired ownership of the property through Tennessee's laws of inheritance.

Under either the scenario of prescription and/or adverse possession, or under the scenario of inheritance, it is clear that Clara Davis Baugh acquired fee simple ownership of the property and had a valid right to devise this property to her "daughter", Sarah Baugh Lewis, the plaintiff herein.

Moreover, the plaintiff's conduct toward the property since the death of Clara Davis Baugh of paying property taxes for over six years, expending large sums of money for its maintenance, demolishing buildings on the property, and taking other steps to establish her exclusive and open ownership of the property, further demonstrates exclusive and notorious ownership in Sarah Baugh Lewis, even if she had not acquired the property through devise from Clara Davis Baugh. Additionally, it would appear that at the time of the death of Clara Davis Baugh, Sarah Baugh Lewis was the last remaining heir of Austin Baugh, deceased. Accordingly, Sarah Baugh Lewis alternatively has acquired the subject property by inheritance.

Pursuant to the foregoing facts, the plaintiff Lewis has acquired by prescription, adverse possession, and devise an indefeasible title in the subject property. Under the principles found in Morgan v. Dillard, 456 S.W.2d 359 (Tenn. App. 1970), cert. denied, the plaintiff, Sarah Baugh Lewis, has clearly established a right of ownership in the property by prescription, through Clara Davis Baugh's continuous, uninterrupted, and open ownership for a period of over twenty-years. Accordingly, Mrs. Baugh's devise of the said property to her "daughter", Sarah Baugh Lewis, was appropriate and vest title in Mrs. Baugh, particularly in the absence of any claim made by any unknown heirs of Austin Baugh, deceased.

It is therefore ORDERED, ADJUDGED and DECREED that title to the following described land be forever quieted, confirmed, and exclusively vested in the plaintiff, Sarah Baugh Lewis, against any claim of all unknown heirs at law of Austin Baugh, deceased, or any other persons. The said property which has vested exclusively in the said plaintiff is more specifically described as follows:

Being land in Davidson County, Tennessee:

Being Lots Nos. 15, 16, 17, 18, 19, 20, and 21, in Block No. 2 Plan of Fisk University Place which is recorded in Book 421, Pages 4 and 5 R. O. D. C., Tennessee.

Said Lots front together twenty-five (25) feet each on the north side of Clifton Turnpike and extend back northwardly with the western margin of 33rd Avenue North or India Street 119 feet to an alley.

Being the same property conveyed to Austin B. Baugh by deed from Richard S. West, and wife, Karen M. West, as of record in Book 1415, Page 132, R. O. D. C., Tennessee. The said Austin B. Baugh having predeceased his wife, Clara Davis Baugh, left said real estate by intestate succession to his said widow, Clara Davis Baugh, and possible unknown heirs. After openly, notoriously, exclusively, continuously, visibly, hostilely, and adversely residing on said property in excess of twenty years and paying property taxes, the said Clara Davis Baugh aquired said property in fee by prescription, adverse possession and/or by inheritance, as per Final Decree of the Chancery Court for Davidson County, Tennessee, Docket No. 92-600-III, Minute Book ____, page ___, Clerk and Master's Office, Davidson County, Tennessee. Clara Davis Baugh having died on or about August, 1986, testate, and devising her entire interest in said real estate to Sarah Baugh Lewis as of record in Will Book 156, page 562, Probate Court Clerk's Office, Davidson County, Tennessee.

This is improved property known as 3008 and 3010 Clifton Road, Nashville, Tennessee 37209.

Map and Parcel Nos.: Map 92-5, par. 281; Map 92-5, par. 281.01; Field Books: 11W-08475; 11W-08480.

It is further ORDERED that Martin G. Szeigis, Esquire, be awarded the sum of $1,195.00 for his services as Guardian Ad Litem for all unknown heirs in this case.

Cost to be assessed against the plaintiff, for which execution may issue, if necessary.

Entered this the _____ day of September, 1992.

CHANCELLOR

RUSSELL B. ENNIX, P.R.NO.4407
ATTORNEY FOR THE PLAINTIFF
330 CHARLOTTE AVENUE, SUITE 427
NASHVILLE, TENNESSEE 37201
(615) 259-4330

Martin G. Szeigis by permission RBE
MARTIN G. SZEIGIS, P.R. NO. 12477
GUARDIAN AD LITEM FOR ALL UNKNOWN HEIRS
213 THIRD AVENUE NORTH
NASHVILLE, TENNESSEE 37201

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Final Decree was mail or delivered to Martin G. Szeigis, Guardian Ad Litem for Unknown Heirs, 213 Third Avenue North, Nashville, Tennessee, by dropping same in the U.S. mail, postage prepaid, this the ~~14th~~ 18th day of September, 1992.

83709

IDENTIFICATION REFERENCE

JAN 19 11 39 AM '93

[illegible] Z. WILSON II REGISTER
DAVIDSON COUNTY, TN

PICK-UP

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