

WADNICK ELMER  
BOX 1188  
CLINTWOOD VA

24228

DATE  
RECORDED 4-76  
DEED OR  
WILL BOOK 176-215  
CONSID-  
ERATION

DATE  
RECORDED  
DEED OR  
WILL BOOK  
CONSID-  
ERATION

DATE  
RECORDED  
DEED OR  
WILL BOOK  
CONSID-  
ERATION

DATE  
RECORDED  
DEED OR  
WILL BOOK  
CONSID-  
ERATION

DATE  
RECORDED  
DEED OR  
WILL BOOK  
CONSID-  
ERATION

CLASS 2  
ZONING  
DISTRICT 03

LEGAL DESCRIPTION  
CANBY RIDGE  
10AC

1992

4000

-

4000

1993

1994

1995

1996

1997

1998

1999

2000

2001

2002

2003

*Dated  
9-23-92  
Does not own this  
Property per documents  
attached to back of  
this card.  
R.V.  
9/23/92*

NO.	TYPE	DATE	W. CLERK	BY	DEED	APPROVED

NOTES: This deed was taken from wrong  
prop. per documents attached  
9-23-92 R.V.

MAP NO. 178-190D(A)2079

[illegible]

VIRGINIA:

IN THE CIRCUIT COURT OF DICKENSON COUNTY

BISHOP SALYER,  
AGNES SALYER,  
PALMER YATES,  
MILDRED YATES,  
ROY BISE,  
AGNES BISE,  
VIRGIL BOGGS, and  
GRACE BOGGS,

Complainants

v.

Chancery No. \_\_\_\_\_

JOHN P. SVECZ,  
Revenue Officer  
Internal Revenue Service  
P. O. Box 2089  
Bristol, Virginia 24203, and

ELMER RASNICK  
P. O. Box 644  
Clintwood, Virginia 24228,

Defendants

BILL FOR INJUNCTION AND  
TO REMOVE CLOUD ON TITLE

TO THE HONORABLE GLYN R. PHILLIPS, Judge of said Court.

Your complainants, Bishop Salyer and Agnes Salyer, husband and wife; Palmer Yates and Mildred Yates, husband and wife, Roy Bise and Agnes Bise, husband and wife, Virgil Boggs and Grace Boggs, husband and wife, respectfully represent that:

I

Complainants are seized and possessed of title to various tracts or parcels of land situated in Kenady Magisterial District

of Dickenson County, Virginia, on Caney Ridge, and derive their title by the following conveyances:

(a) Bishop Salyer and Agnes Salyer acquired a 3.7 acre tract of land from Noah Yates and Mellie Yates, his wife, by deed dated June 7, 1968, of record in the Clerk's Office of this Court in Deed Book No. 138, page 352.

(b) Palmer Yates and Mildred Yates, husband and wife, acquired a 9.0 acre tract of land from Paul E. Moore and Louise Moore, his wife, by deed dated August 6, 1976, of record in said Clerk's Office in Deed Book No. 179, page 085.

(c) Roy Bise and Agnes Bise, husband and wife, acquired a tract containing approximately 2.0 acres from E. B. Stanley, et al. by deed dated January 13, 1951, of record in said Clerk's Office in Deed Book No. \_\_\_\_\_, page 533.

(d) Virgil Boggs and Grace Boggs, husband and wife, acquired a tract of approximately 1.0 acre from Hassell M. Boggs and June K. Boggs by deed dated March 6, 1957, recorded in said Clerk's Office in Deed Book No. 112, page 352.

Photocopy of the record of each of the foregoing conveyances is filed herewith as Exhibits No. 1, 2, 3 and 4, respectively.

## II

Title to the said four tracts owned by complainants and listed in Paragraph I, above, is derived from Nancy Jane Ball, who acquired title to a tract of land described as containing 30 acres, by deed from Lidy Stanley and C. B. Stanley, her husband, and Z. (Zachary) T. Yates by deed dated October 22, 1914, of record in said Clerk's Office in Deed Book No. 35, page 334. A photocopy of the record of said deed is herewith filed as Exhibit 5.

In the said deed to Nancy Jane Ball the 30 acre tract of land is described as follows:

:. :.  
:. :.

"BEGINNING at a stake in the old line at  
Ab Yates corner, with the old line

East	to a chestnut oak in the old line; leaving the old line
North	to a chestnut oak at the road;
North	to a black oak;
North	to a chestnut oak in the old line; with old line
	to a chestnut; leaving the chestnut
South	to a beech; thence with Ab Yates line to the BEGINNING CORNER."

III

After the conveyance of the 30 acre tract to Nancy Jane Ball by Lidy Stanley, et al., in 1914 by the deed shown in the preceding paragraph hereof, a suit was filed in this Court in 1925 by C. P. McCoy and Lettie Salyers against the said Lidy Stanley to subject a tract of land in Kenady Magisterial District of said County, on Caney Creek, containing 18 acres, more or less, to the payment of a judgment held by McCoy and Salyers against Lidy Stanley, and as a result of this suit a sale of the 18 acre tract was made, and G. Mark French was appointed Special Commissioner and directed to sell the 18 acre tract. At the sale Denver Damron and Clint Mullins were the successful bidders and by deed dated March 24, 1926, of record in said Clerk's Office in Deed Book No. 56, page 503, G. Mark French, Special Commissioner, executed a deed to Denver Damron and Clint Mullins, but by mistake instead of describing the 18 acre tract situated on Caney Creek, the land described is the Nancy Jane Ball 30 acre tract situated on Caney Ridge. The description of said land conveyed by the Special Commissioner is as follows:

"BEGINNING at a stake in the old line  
at Ab Yates corner; with the old line

East	to a chestnut oak in the old line; leaving the old line
North	to a chestnut oak at the road;

North

to a black oak;

North

to a chestnut oak in the old line; with the old line

South

to a chestnut; leaving the chestnut to a beech; thence with Ad Yates line to the BEGINNING."

A photocopy of the record of said deed is hereto attached as Exhibit No. 6.

IV

The defendant, Elmer Rasnick, obtained his title to his tract of land on Caney Creek by deed from Ralph and Stella Patterson, husband and wife, by deed dated April 5, 1976, of record in the Clerk's Office of this Court in Deed Book No. 176, page 215. A photocopy of the record of said deed is herewith attached as Exhibit No. 7.

V

The defendant Elmer Rasnick derives his title to his land on Caney Creek by a series of conveyances and wills going back through Ralph and Stella Patterson to Denver Damron and Clint Mullins. In all of said conveyances in the chain of title of Elmer Rasnick the Nancy Jane Ball 30 acre tract on Caney Ridge is described, rather than the 18 acre tract on Caney Creek.

VI

The defendant, Elmer Rasnick, and his predecessors in title, have never claimed any of the land of complainants, but instead, claim ownership of the tract of land on Caney Creek.

VII

The Internal Revenue Service, United States Department of the Treasury, has seized the land of the defendant Elmer Rasnick for nonpayment of Internal Revenue taxes, and has advertised the Nancy Jane Ball 30 acre tract of land on Caney Ridge for sale on September 28, 1982, at 11:00 a.m., at the front steps of the Dickenson County Courthouse, Clintwood, Virginia. Though the defendant John P. Svecz

has posted handbills advertising the sale of the Elmer Rasnick tract on Caney Creek, the handbills describe the land to be sold as the Nancy Jane Ball 30 acre tract on Caney Ridge. Said defendant intends to proceed with the sale of the 30 acre Caney Ridge tract in spite of the fact that Elmer Rasnick owns no interest therein.

VIII

Complainants and their predecessors in title are in possession of their respective tracts of land under proper deeds of record, and each of the complainants resides on his or her respective tract, on all of which are situated valuable dwelling houses and other improvements. Complainants and their predecessors in title have been in actual, exclusive, hostile, open, and notorious possession of their respective tracts of land under a bona fide claim of right against all other persons for more than 50 years.

PRAYER

WHEREFORE, complainants pray that:

(1) The defendant, John P. Svecz, be enjoined from selling any part of the Nancy Jane Ball 30 acre tract described in notices advertising the sale of the Ball land on September 28, 1982; that the deed from Ralph and Stella Patterson to Elmer Rasnick, dated April 5, 1976, recorded in Deed Book No. 176, page 215, be cancelled and set aside as a cloud upon the title of complainants; that a commissioner be appointed to convey to complainants all the purported interest of Elmer Rasnick in the Nancy Jane Ball tract; that complainants be awarded a reasonable attorney's fee and their costs expended herein in obtaining a cancellation of the deed to Elmer Rasnick and an injunction against the sale of their land; and that complainants shall have other relief as to the Court shall seem appropriate.

Upon consideration of said bill, the Court finds that:

(1) The complainants are seized and possessed of lands situated in Kenady Magisterial District of Dickenson County, Virginia, as follows:

(a) Bishop Salyer and Agnes Salyer, husband and wife, a 3.7 acre tract of land, acquired from Noah Yates and Mellie Yates, his wife, by deed dated June 7, 1968, of record in the Clerk's Office of this Court in Deed Book No. 138, page 352.

(b) Palmer Yates and Mildred Yates, husband and wife, a 9.0 acre tract of land, acquired from Paul E. Moore and Louise Moore, his wife, by deed dated August 6, 1976, of record in said Clerk's Office in Deed Book No. 179, page 085.

(c) Roy Bise and Agnes Bise, husband and wife, a tract containing approximately 2.0 acres, acquired from E. B. Stanley, et al. by deed dated January 13, 1951, of record in said Clerk's Office in Deed Book No. \_\_\_\_\_, page 533.

(d) Virgil Boggs and Grace Boggs, husband and wife, a tract of approximately 1.0 acre, acquired from Hassell M. Boggs and June K. Boggs, by deed dated March 6, 1957, recorded in said Clerk's Office in Deed Book No. 112, page 352.

(2) All of the complainants derive title to their said land from Nancy Jane Ball, who by deed from Lidy Stanley, et al., dated October 22, 1914, of record in the Clerk's Office of this Court in Deed Book No. 35, page 334, acquired title to a 30 acre tract of land situated in said County, on Caney Ridge.

(3) The defendant, Elmer Rasnick, is seized and possessed of a tract of land in said County, on Caney Creek, which was conveyed to him by Ralph and Stella Patterson by deed dated April 5, 1976, of record in said Clerk's Office in Deed Book No. 76, page 215, but by mistake, this deed described the land conveyed as the Nancy



(9)

Jane Ball 30 acre tract on Caney Ridge rather than the tract situated on Caney Creek, which was intended to be conveyed thereby.

(4) The Elmer Rasnick title is derived from the said Lydia (or Lidy) Stanley, whose land was conveyed at a judicial sale by G. Mark French, Special Commissioner for Lidy Stanley, to Denver Damron and Clint Mullins, by deed dated March 24, 1926, of record in said Clerk's Office in Deed Book No. 56, page 503, in which deed it is recited that the intention of the parties was to convey a 18 acre tract owned by Lidy Stanley, but by mistake, they land described was the 30 acre tract on Caney Ridge conveyed to Nancy Jane Ball by Lidy Stanley, et al. by deed dated October 22, 1914, of record in said Clerk's Office in Deed Book No. 35, page 334, rather than the 18 acre tract on Caney Creek.

(5) The defendant John P. Svecz, a Revenue Officer, Internal Revenue Service, has advertised the land of Elmer Rasnick on Caney Creek for sale for nonpayment of Internal Revenue taxes, but the notice of sale, instead of describing the Elmer Rasnick land on Caney Creek, described the Nancy Jane Ball 30 acre tract on Caney Ridge, which 30 acre tract includes the said land of complainants.

(6) The complainants appear to be entitled to the cancellation of the deed to Elmer Rasnick, and will suffer irreparable injury if the sale proceeds, they have no adequate remedy at law and are entitled to the injunction.

It is accordingly, ADJUDGED, ORDERED and DECREED that:

(1) The defendant, John P. Svecz, Revenue Officer, Internal Revenue Service, is hereby restrained and enjoined from selling for nonpayment of Internal Revenue taxes of Elmer Rasnick, any part of the Nancy Jane Ball 30 acre tract of land, situated on Caney Ridge.

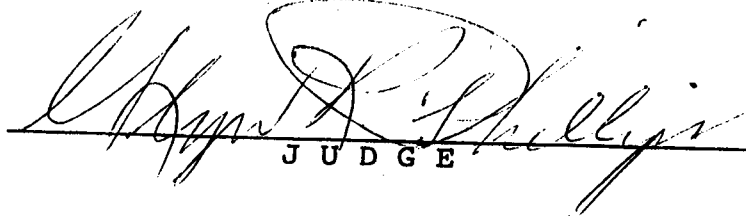
(2) This injunction shall not become effective until the complainants, or someone for them, shall enter bond, to be approved by the Clerk of this Court, in the amount of \$ 1,000.00, conditioned accordingly to law, which said bond shall be filed with

(10)

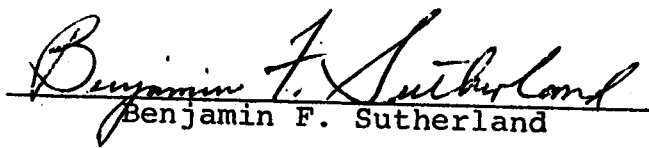
the Clerk.

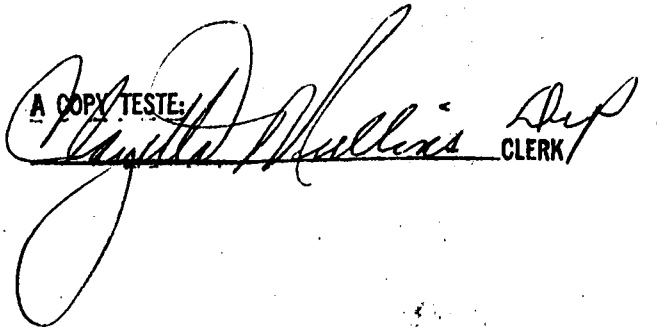
(3) This injunction shall remain in effect for 30 days from and after the date hereof, at the end of which period it shall stand dissolved unless prior thereto it shall have been enlarged or dissolved.

ENTER this 27th day of September, 1982.

  
J U D G E

REQUESTED:

  
Benjamin F. Sutherland, D. Q.

A COPY TESTE:  
  
CLERK