

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 96-CA-00255 COA**

CAROLYN TROTTER HOOD

APPELLANT

v.

**CARROLL D. COX, JANET COX, JAMES W. COX,
AND GWENDOLYN CULIPHER**

APPELLEES

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED,
PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT:	02/05/96
TRIAL JUDGE:	HON. PAT WISE
COURT FROM WHICH APPEALED:	HINDS COUNTY CHANCERY COURT
ATTORNEY FOR APPELLANT:	SAM M. BRAND JR.
ATTORNEYS FOR APPELLEES:	PHILLIP M. NELSON J. JEFFREY TROTTER
NATURE OF THE CASE:	CIVIL - REAL PROPERTY
TRIAL COURT DISPOSITION:	TITLE TO CONTESTED PROPERTY QUIETED IN APPELLEE
DISPOSITION:	AFFIRMED - 12/02/97
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	12/23/97

BEFORE BRIDGES, C.J., DIAZ, AND COLEMAN, JJ.

DIAZ, J., FOR THE COURT:

Carolyn Trotter Hood contests the lower court's decision to quiet title to a contested parcel of property in favor of the appellees. Aggrieved by this decision, Hood argues (1) that the chancellor erred in finding that the Hood title was not superior to the Cox title and (2) that the chancellor erroneously found that the Cox family had obtained title through adverse possession. Finding both issues without merit, we affirm.

FACTS

This case arose from a dispute over title to a parcel of land located along the Big Black River in northern Hinds County. The parcel claimed by Hood is described as Lot 1, Section 15, Township 8 North, Range 3 West, Hinds County, Mississippi. The parcel claimed by the appellees (hereinafter collectively referred to as Cox) is described as Lot 1 being all the Southeast Quarter Northeast Quarter East of Big Black, Section 15, Township 8, Range 3 West, Hinds County, Mississippi. Although each description is slightly different, both descriptions refer to the same piece of property. Hood derails her title to the subject property back to the year 1858, while Cox derails his title as far back as 1899. Furthermore, both parties have been consistently paying property taxes on this same parcel of land. Therefore, Hood and Cox each claim to be the rightful owner of the subject property.

DISCUSSION

I. DID THE CHANCELLOR ERR IN FINDING THAT THE HOOD TITLE WAS NOT SUPERIOR TO THE COX TITLE?

We must first point out that this Court applies a limited standard of review on appeals from chancery court. *Reddell v. Reddell*, 696 So. 2d 287, 288 (Miss. 1997). We will not interfere with the chancellor's findings unless she was "manifestly wrong, clearly erroneous or an erroneous legal standard was applied." *Bell v. Parker*, 563 So. 2d 594, 596-97 (Miss. 1990). The chancellor in the present case found that both Hood and Cox adequately proved that they each owned clear record title to the property in dispute. However, proof of clear record title is an insufficient basis for finding that a party's title is superior when there is a valid dual chain of title to the subject property. Rather, the complainant must show perfect title in herself. *Culbertson v. Dixie Oil Co.*, 467 So. 2d 952, 954 (Miss. 1985). A careful review of the facts makes it clear that Hood failed to prove that her title was superior to the Cox title. Accordingly, we find that the chancellor did not commit error in her ruling on this issue; therefore, this proposition is without merit.

II. DID THE CHANCELLOR ERR IN FINDING THAT THE COX FAMILY HAD OBTAINED TITLE THROUGH ADVERSE POSSESSION?

Mississippi's adverse possession statute provides in part:

Ten years' actual adverse possession by any person claiming to be the owner for that time of any land, uninterruptedly continued for ten years by occupancy, descent, conveyance, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual occupant or possessor of such land a full and complete title

Miss. Code Ann. § 15-1-13 (Rev. 1995). From this statute, the supreme court has formulated a six-element test to determine whether possession is adverse. *Rice v. Pritchard*, 611 So. 2d 869, 871

(Miss. 1992). The claimant must prove that his possession is "(1) under claim of ownership; (2) actual or hostile; (3) open, notorious, and visible; (4) continuous and uninterrupted for a period of ten years; (5) exclusive; and (6) peaceful." *Id.*

As to the first element, the Cox family has claimed ownership to the subject property since 1937 when the Federal Land Bank of New Orleans conveyed the tract of land to R.E. Leavell and L.W. Cox. The second element requires either actual or hostile possession. The record reflects that the Cox family has been in actual, physical possession of the property since 1937, during which time they have cut timber, grazed cattle, and monitored access to the property. Third, the Cox's possession of the land has been open, notorious, and visible to anyone interested in inspecting the property. Cox testified that not only did he cut timber on the property and maintain a pasture on the land, but that he was also responsible for granting permission to anyone wanting to hunt on the property. As for the fourth element, the Cox family has been in continuous, uninterrupted possession of the property since 1937. In fact, Cox had met the ten year adverse possession requirement long before 1956, when the Trotter-Hood family obtained an ownership interest in the property. The fifth element requires exclusive possession of the subject property. Cox testified that there has never been a break in his family's use or occupancy of the land. Finally, the Cox family's possession of the property has been peaceful since they acquired the land in 1937. There have been no claims of ownership or other attempts to disturb the Cox's possession of the subject property until the instant lawsuit was filed.

The Mississippi legislature enacted the adverse possession statute so as to resolve the problem of inattentive landowners who ignore claims to their property over a long period of time. *Clanton v. Hathorn*, 600 So. 2d 963, 966 (Miss. 1992). Hood testified that she had only been on the property once in her lifetime. Furthermore, the record fails to provide evidence of either Hood or her predecessors-in-title exercising any of the customary acts of ownership. Applying the relevant Mississippi law to the facts of this case, we find that the chancellor correctly concluded that the Cox family was entitled to the protection of the adverse possession statute.

THE JUDGMENT OF THE HINDS COUNTY CHANCERY COURT IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.

BRIDGES, C.J., McMILLIN AND THOMAS, P.JJ., COLEMAN, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.