

SUCCESSION OF JULES LAPENE,
W. SOMMER BENEDICT, DATIVE
TESTAMENTARY EXECUTOR

STATE OF LOUISIANA

VERSUS NUMBER 10272

17TH JUDICIAL DISTRICT COURT

DESIRE LAGRAIZE, L. PHILIP
CAILLOUET, ET ALS

PARISH OF LAFOURCHE

J U D G M E N T

The above numbered and entitled cause came on for trial
this day pursuant to previous fixing.

APPEARANCES

PRESENT:

1. Arthur L. Ballin
2. Donald L. Peltier, Attorneys for Louis P. LaGraize,
et al
3. Clyde Caillouet
4. Bernard Caillouet, Attorneys for Alban C. Caillouet,
et al
5. Preston J. Schowalter
6. W. J. Waguespack, Jr., Attorneys for Wanda S. Poche
Tracy, et al
7. James H. Kepper, Jr., in proper person
8. Stewart J. Kepper, in proper person
9. Edmond L. Deramee, Sr., Curator ad hoc for absentee,
J. Edgerton Palmer
10. Robert H. Burton III, in proper person
11. J. Ralph Goff, Attorney for Placid Oil Company
12. Philip Gensler, Attorney for Placid Oil Company
13. Joseph Deynoedt, Attorney for Intervenor

This suit was originally an action in nullity filed by
W. Sommer Benedict, Public Administrator of the Parish of Orleans
and Dative Testamentary Executor of Jules Lapene (Succession of
Jules Lapene, Docket Numbers 26,797 and 26,746, consolidated by
order of Court, Docket 1, Division "A", Civil District Court for
the Parish of Orleans), wherein the Public Administrator sought
to have this Court declare null two (2) certain tax deeds exe-
cuted on June 22, 1895, by the Sheriff of the Parish of Lafour-
che, under which tax deeds the present defendants and their as-
signees and mineral lessee claim title to lands formerly owned

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by Jules Lapene and located in the Parish of Lafourche.

After the amendment of the original pleading by two (2) supplemental petitions and the filing of certain exceptions and pleas, the Court as a result of a pre-trial conference held on May 5, 1953, issued a pre-trial order limiting the issues in this case to a consideration of the validity of the two (2) tax deeds insofar as the title to the following eighty (80) acres of land is concerned, to-wit:

Southwest Quarter of the Northwest Quarter (SW/4 of NW/4) and the Northwest Quarter of the Southwest Quarter (NW/4 of SW/4) of Section Fourteen (14), Township Twenty-one (21) South, Range Twenty-two (22) East, Lafourche Parish, Louisiana.

Subsequent to the pre-trial order of May 5, 1953, all parties to the suit were before the Court on their respective pleadings as filed herein and that this matter was set down for trial to be heard on June 23, 1953. By reason of written motion filed by W. Sommer Benedict on June 16, 1953, alleging his illness, the Court continued and re-assigned the case for hearing on the 8th day of October, 1953, at 10:00 o'clock A.M.

On October 7, 1953, W. Sommer Benedict, the Public Administrator, filed a motion to discontinue his suit as of nonsuit, and the order of discontinuance was signed by the Court on the same day, but reserved therein "unto defendants their right to proceed under all defenses in the nature of reconventional demands and this cause remains fixed for trial at 10:00 o'clock A.M., October 8, 1953, on those remaining issues."

The trial proceeded at the appointed time and from the evidence (documentary and verbal) adduced at the trial, the Court is convinced

1.

That Jules Lapene acquired title to the land in contest by virtue of patents issued to him by the State of Louisiana in the year 1883, and that he never voluntarily parted with title.

2.

That the property was assessed to the Estate of Jules Lapene on the Assessment Rolls for the Parish of Lafourche for the year 1894, was sold by the Sheriff for unpaid taxes of that year, and purchased by Desire Lagraize and L. Philip Caillouet, by two (2) separate deeds, each dated June 22, 1895.

3.

That there was no payment of 1894 taxes on said property prior to the sale thereof for unpaid taxes of that year.

4.

That the property described in the deeds evidencing the tax sales is identified as including the:

Northwest Quarter of Southwest Quarter and
Southwest Quarter of Northwest Quarter, Sec-
tion 14, Township 21 South, Range 22 East,

by reason of the references in said deeds to the Certificate Numbers and acreage content as given by the State Land Office and to the Assessment Rolls for the year 1894.

5.

That the tax deeds to Desire Lagraize and L. Philip Caillouet have been recorded in the Conveyance Records of the Parish of Lafourche, Louisiana, since the year 1895.

6.

That the heirs of Desire Lagraize and of L. Philip Caillouet have resolved any conflicting claims by compromise.

7.

That Desire Lagraize and his heirs and their lessees and assigns have had continuous, uninterrupted, peaceable, public and unequivocal possession in good faith/under just title, of the property involved for the necessary length of time to establish title by the prescription of ten (10) years acquirendi causa.

8.

That the property in controversy has a value in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars.

That the pleas of preemption of three and five years as provided by the Constitutions of the State of Louisiana, Article 233 and Section 11 of Article X have been established and are well founded in law and in fact and are sustained.

By reason of the foregoing facts and the law and the evidence being in favor thereof, and for the additional reasons this day orally assigned by the Court,

IT IS ORDERED, ADJUDGED and DECREED that the pleas of preemption be maintained and that the Succession of Jules Lapene was divested by virtue of said tax sales of all right, title and interest which it had in and to the Southwest Quarter of the Northwest Quarter (SW/4) and the Northwest Quarter of the Southwest Quarter (NW/4 of SW/4) of Section Fourteen (14), Township Twenty-one (21) South, Range Twenty-two (22) East, Lafourche Parish, Louisiana, and that said Succession of Jules Lapene has no right, title and interest in and to said property at the present time.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the plea of prescription of ten (10) years acquirendi causa, be maintained.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that there be judgment in favor of defendants and plaintiffs in reconvention and against the plaintiff, Succession of Jules Lapene, W. Sommer Benedict, Dative Testamentary Executor, and the intervenor, now defendants in reconvention, recognizing and decreeing said defendants and plaintiffs in reconvention, Louis P. Lagraize, Ferdinand Felix Lagraize, Edward Joseph Lagraize, Jr., Wilson Anthony Lagraize, Earl P. Lagraize, Charles Ray Lagraize, Gerard Herman Lagraize, Bernice Lagraize Frommeyer, Annette Marie Lagraize Olivier, Odette Marie Lagraize Rogers, Paul O. Lagraize, Jr., Isabella Lagraize Naquin, Francis Desire Lagraize, Clarence Joseph Lagraize, Albert George Lagraize, Alban C. Caillouet, Adele M. Caillouet, Irene M. Caillouet, Marie E. Caillouet,

Rt. Msgr. Lucien J. Caillouet, V.G., Most Rev. L. Abel Caillouet, V.F., Heloise M. Caillouet, known in religion as Mother Marie Dolores of the Passion, Rosemary E. Caillouet, Louis E. Caillouet, Marie Antoinette Caillouet Durel, Lucien A. Caillouet, Rev. James L. Caillouet, Dorothy Ann Caillouet Klingman, L. Philip Caillouet, Rev. Adrian J. Caillouet, Bernard Caillouet, Placid Oil Company, Preston J. Schowalter, William J. Waguespack, Jr., and Edward R. Schowalter, James H. Kepper, Jr., Stewart J. Kepper, Robert H. Burton III, Wanda S. Poche Tracy, Mrs. Carrie Stevens, widow of Sidney R. Coulon, Mrs. Carolyn Coulon Goodrow, Gerald V. Coulon, Miriam R. Neuhauser, Albert E. Moulin, Dr. William A. Poche, Harry T. Tracy, Paul Bordlee, Warren M. Simon, Albert G. Rickerfor, Nicholas A. Manale, J. Edgerton Palmer, Victor J. Saladino, Fred Schouest, Theodore H. McGiehan and Irene G. McGiehan, to be the owners and possessors in the proportions and capacities as shown by the Conveyance Records of Lafourche Parish, Louisiana. of the following described property, to-wit:

The Southwest Quarter of the Northwest Quarter (SW/4 of NW/4) and the Northwest Quarter of the Southwest Quarter (NW/4 of SW/4) of Section Fourteen (14), Township Twenty-one (21) South, Range Twenty-two (22) East, Lafourche Parish, Louisiana.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the fees of all Curators ad Hoc appointed in this proceeding and not heretofore fixed, be and the same are hereby fixed at the sum of Twenty-five (\$25.00) Dollars each, and taxed as costs.

JUDGMENT READ, RENDERED and SIGNED in open Court on this 8th day of the month of October, A.D. 1953.

J. Davis Mark...

J U D G E, 17th Judicial District Court of Louisiana.

FILED

OCT 8 1953

at 4:50 P.M.
A. Handy
CLERK OF COURT

AND EX-OFFICIO RECORDS OFFICE
Parish of Lafourche
Received 8th
1953
and recorded in Conveyance Book 174
Clerk and Ex-Officio Recorder

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