

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF EUREKA.

MAE M. DESMARAIS AND PHILIP M.
DESMARAIS,

Plaintiffs,

vs.

HENRY K MITCHELL, JOHN R. WHITE,
STEWART MITCHELL CARLEY, KATE CARLEY
BENNETT, MRS. DELANCY WATKINS, MRS.
CORNELIA WATSON, JANE DOE WATSON
(whose true name is KATHERINE WATSON).

MARY ROE WATSON, (whose true name is
HELEN WATSON) JOSEPH CARLEY, ANDREW
B. MITCHELL and ISABEL MITCHELL RODGERS,
CAROLINE RODGERS, WILLIAM ALEXANDER RODGERS,
children of and substituted in the stead of
HELEN E. RODGERS, now deceased, and HENRY K.
MITCHELL, as guardian ad litem of
ALEXANDER RODGERS, a minor,

Defendants.

JUDGMENT AND DECREE.

This cause having come on regularly for trial on the.... day of January, 1913 before the Court sitting with an advisory jury to which certain questions of fact were submitted for the advice of the Court, the plaintiffs appearing by T.J. McParlin, Esq. and George S. Brown, Esq. their attorneys and the defendants appearing by Henry K. Mitchell, Esq. as attorney for himself and also as attorney for all the other defendants, witnesses were sworn and oral and documentary evidence introduced by and on behalf of the respective parties and certain interrogatories were by the Court propounded to and submitted to the jury which thereafter returned its answers to said interrogatories, and the said evidence and proceedings and the answers to said interrogatories having been submitted to the court and having been taken under advisement and the court after due consideration of the same and being fully advised in the premises, having filed its written opinion and decision and thereafter having filed in writing its formal findings of fact and conclusions of law and its formal decision in the action.

NOW THEREFORE in consideration of the premises: It is by the Court, ORDERED, ADJUDGED AND

DECREED that the deed described in the complaint which was made and executed by Maurice Hartnett as grantor to the defendant Henry K. Mitchell, as grantee, dated March 15th, 1907, and recorded it pages 405, 406 and 407 of Book 15 of Deeds of the records in the office of the County Recorder of Eureka County, was made in trust to said defendant Henry K. Mitchell for the sole use and benefit of said Maurice Hartnett, and that the said Henry K. Mitchell held and holds the property described in said deed as trustee for the plaintiff, Mae M. DesMarais, and that the said defendant Henry K. Mitchell be and he hereby is ordered and required forthwith to make, execute and deliver to said plaintiff, Mae M. DesMarais, a deed conveying to her all the property which said deed of March 15, 1907 purported to convey to said defendant Henry K. Mitchell and that if said defendant Mitchell neglects and fails for the period of thirty days after the service upon him of a certified copy of this decree, to make, execute and deliver such deed to said plaintiff, then the court shall appoint a Commissioner who shall in the name and stead of said Henry K. Mitchell and as his act and deed, make, execute and deliver to said plaintiff, Mae M. DesMarais a deed of conveyance of the said property, and it is further ordered, adjudged and decreed that the said deed made by Maurice Hartnett to Henry K. Mitchell dated March 15th 1907, be and the same hereby is annulled and cancelled and that said defendant Henry K. Mitchell be and he hereby is ordered and directed to surrender said deed to the clerk of this court for cancellation and the clerk of this court is authorized and directed to cancel the same and the County Recorder of Eureka County is authorized and directed to cancel said deed of record. And it is further, ordered, adjudged and decreed that the deed made by said defendant Henry K. Mitchell as grantor to the defendant John R. White as grantee dated January 15th, 1911, is and it is hereby declared to be a cloud upon the title of the plaintiff Mae M. DesMarais to the property purported to be conveyed by said deed of March 15th, 1907, and that none of the defendants had, or has any right, title or interest in or to any of the property purported to be conveyed by the said deed made by Maurice Hartnett to Henry K. Mitchell dated March 15, 1907, and that none of the defendants have any right, title or interest in any of the property described in the said deed made by the defendant Henry K. Mitchell to the defendant John R. White, dated January 15th, 1911, and recorded at pages 634, 635 and 636 of Book 16 of Deeds of the records in the office of the County Recorder of Eureka County, except in and to an undivided one-half of the Lemon Mining claim, an undivided one-half of the tunnel right, located November 21, 1871, an undivided one-half of the northerly fractional part of the Sam Tilden mining claim, and undivided one-half of the General Custer mining claim, and an undivided one-half of the Storm mining claim, the said property so excepted being the property conveyed by Maurice Hartnett to said defendant Henry K. Mitchell by a deed dated July 22nd, 1905 and it is further ordered, adjudged and decreed that the defendants and each of them be and they are and each of them is forever enjoined from asserting any right, title, interest or claim adverse to the plaintiffs or either of them, in or to any of the property belonging to Maurice Hartnett on the 15th day of March 1907 and described in the deed of March 15th, 1907, hereinbefore referred to, and that the title of the plaintiff Mae M. DesMarais in and to the same, be and the same hereby is quieted.

And it is further ordered, adjudged and decreed that the defendant Henry K. Mitchell is entitled to be reimbursed out of said property for the sum of \$2369.40 advanced and expended by him for and in behalf of said Maurice Hartnett and that said Henry K. Mitchell have judgment for said sum of two thousand three hundred and sixty-nine dollars and forty cents (\$2369.40) and that said sum be and the same is hereby decreed to be a first lien in favor of said Henry K. Mitchell upon each of the mines and mining claims described in the deed from Maurice Hartnett to Henry K. Mitchell, dated March 15, 1907, save and except upon the half interest in the tunnel right, and in the Lemon, General Custer and Storm mining claims which were conveyed to said Mitchell by said Hartnett by the deed dated July 22, 1905.

It is further ordered and adjudged that plaintiffs have judgment against the defendants for

their costs in the action amounting to the sum of \$ and that execution may issue therefor.

Done in open court this 16th day of January 1914.

By the Court:

Peter Breen

District Judge.

Endorsed: Filed Jan. 16, 1914. R. McCharles Clerk. Number 2058--

Recorded in Book "C" of Judgments, Pages 401-402-403 & 404.

Recorded at the request of Ernest G. Clewe. April 4 A.D. 1917 at 10 minutes past 9 A.M.

Edgar Eather, Recorder.