

File No. 21879.

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

ROBERTS MINING AND MILLING COMPANY, a corporation,)
Plaintiff,)

No. 2330

-vs-

M.J HOUGH, MINNIE J. HOUGH, JAMES RATAZZI, individually
and as Sheriff of the County of Eureka, State of Nevada,
RESERVE GOLD MINING COMPANY, a corporation, FIRST DOE,)
SECOND DOE, THIRD DOE, FOURTH DOE, THE BLACK COMPANY, a
corporation, THE WHITE COMPANY, a corporation,)
Defendants.)

Filed: December 15 1936.

Ed Delaney
Clerk

By _____
Deputy

FINAL JUDGMENT AND DECREE

The above entitled action came regularly on to be and was finally tried to and by the above entitled court, Hon. J.M. Lockhart, District Judge, presiding, a jury having been duly waived by the parties, on April 13th and succeeding days to and including April 20, 1936, upon the issues joined in and by plaintiff's complaint, filed April 5, 1934, the "Answer and Counterclaim" of defendants, M.J. Hough and Minnie J. Hough, filed May 14, 1934, and the "Supplemental Complaint", filed August 18, 1934, and the "Answer to Supplemental Complaint", filed by defendants, M.J.Hough and Minnie J.Hough, August 24, 1934, and the "Reply" of plaintiff - to the said "Answer and Counterclaim" of said defendants, and to said "Answer to Supplemental Complaint" of said defendants - filed December 5, 1935, and the default of the defendant, James Rattazzi, individually, and as sheriff of Eureka County, Nevada, said default having been duly and regularly entered in said action.

The plaintiff appeared by its attorneys, Prince A.Hawkins, of Hawkins, Mayotte & Hawkins, and C.M. Hawkins, and the defendants, M.J. Hough and Minnie J. Hough, appeared by their attorney, James T. Boyd. Evidence, oral and documentary, was offered on behalf of the plaintiff and on behalf of the defendants, M.J. Hough and Minnie J. Hough, concerning the issues joined in and by said pleadings, above mentioned. Oral argument was made by the attorneys for the respective parties in said action, and said action and the entire matter therein was submitted to the court for decision on April 20, 1936.

The Court - having duly considered the entire record, the evidence offered and received, and the arguments of counsel for the respective parties - being fully advised in the premises, on June 25, 1936, duly made and rendered judgment, in favor of the plaintiff and against the defendants, M.J.Hough and Minnie J. Hough, and James Rattazzi, individually and as sheriff of Eureka County, Nevada, and on June 27, 1936, filed in the above entitled court and action its written "Decision on the Merits", and directed that the attorneys for the plaintiff prepare and serve Findings of Fact and Conclusions of Law in accordance therewith. The plaintiff prepared, served and filed its proposed "Findings of Fact and Conclusions of Law", and the defendants, M.J. Hough and Minnie J. Hough, prepared, served and filed their objections and proposed amendments thereto; after due consideration of said proposed "Findings of Fact and Conclusions of Law" and the said Objections and proposed amendments thereto, the Court, on October 24, 1936, signed, and on October 27, 1936, filed, in the above entitled Court and action, its "Findings of Fact and Conclusions of Law."

NOW, THEREFORE, by reason of the law and the Findings of Fact, aforesaid, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1st. That on December 20, 1929, the said M.J. Hough and Minnie J. Hough, duly and for value received, sold, assigned, transferred, set over and conveyed to Belle McCord Roberts all their right, title and interest in and to the said action No.2264, and the cause of action

therein stated, and thereafter neither said M.J. Hough nor said Minnie J. Hough was the owner of, or interested in, said action No. 2264, or the cause of action therein stated, or in or to any proceeds, rights, privileges or interest arising out of or because of said action No. 2264, or the cause of action therein stated.

2d. That at all times subsequent to the execution of said agreement, assignment and contract, of date December 20, 1929, which was executed and delivered by Michael J. Hough and Minnie J. Hough to Belle McCord Roberts, the said M.J. Hough, defendant herein, has occupied a fiduciary relation toward and with the said Belle McCord Roberts, and her successors in interest, in connection with, or in relation to, the said agreement, assignment and contract, of dated December 20, 1929, and all the benefits, interests, and rights to be acquired and acquired under and by virtue of said agreement, assignment and contract, of date December 20, 1929, and that it was and is contrary to equity that said defendant, M.J. Hough, should or could, in October 1933, or in June 1934, or at any other date, under said sheriff's sale proceeding, and/or the acquiring of the "Certificate of Sale" so issued by said sheriff under dated October 9, 1933, and/or the acquiring of the said Sheriff's Deed, of date June 9, 1934, acquire any interest in said Emma E patented lode mining claim, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada, adverse and/or antagonistic to the plaintiff herein, and/or to its interest and title in and to said Emma E patented lode mining claim.

3d. That said M.J. Hough, defendant herein, did not acquire or secure any interest in, or right to, the said Emma E patented lode mining claim, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada, by virtue of said execution sale, or said "Certificate of Sale" so issued by the sheriff under date October 9, 1933, or under said sheriff's deed, of date June 9, 1934, except as trustee of, and in trust for, said Belle McCord Roberts and her successors in interest, including the plaintiff herein, and the said M.J. Hough, defendant herein, has no claim, interest, right or title in or to the said Emma E patented lode mining claim, or to the possession thereof, except as trustee of, and in trust for, plaintiff herein; and that any and all interest, right or title whatsoever which said defendant, M.J. Hough, acquired, has or holds in or to said Emma E patented lode mining claim was acquired and held by said M.J. Hough, defendant herein, as trustee of, and in trust for, plaintiff herein, and/or its predecessors in interest.

4th. That on April 2, 1934, by mesne assignments and conveyances, the plaintiff herein became, and ever since has been, the owner of that certain judgment pronounced, made and entered in said action No. 2264, and the owner of all rights based upon said judgment, and the owner of the Certificate of Sale, of date October 9, 1933, based upon the sheriff's sale of October 9, 1933, and the owner of the right to any and all redemption moneys paid to redeem said Emma E patented lode mining claim from said execution sale, in the event there was redemption from said sale, and entitled to a sheriff's deed for said Emma E patented lode mining claim, in the event there was no redemption from said sale; and that the plaintiff is now, and ever since April 9, 1934, the date of the expiration of the period of redemption from said execution sale, and ever since June 9, 1934, the date of the sheriff's deed, based upon said execution sale, has been, the owner of, and entitled to be vested with full title to and the possession of said Emma E patented lode mining claim, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada.

5th. That any and all title, interest and/or right acquired, had, held and/or obtained by said defendant, M.J. Hough, in and to said Emma E patented lode mining claim acquired, had, held and/or obtained by virtue of said execution sale, the said certificate of purchase, and/or the said sheriff's deed, of date June 9, 1934, was acquired, had, and held by said defendant, M.J. Hough, in trust, and as trustee, for the use and benefit of Roberts Mining and Milling Co., a

corporation, plaintiff herein, or its predecessors in interest, and that said M.J. Hough is now, and was on, and at all times since, October 9, 1933 has been, the trustee thereof, for Belle McCord Roberts and her successors in interest, including said Roberts Mining and Milling Co., a corporation, the plaintiff herein.

6th. That the defendant, M.J. Hough, and all persons and/or corporations claiming under him, holds the legal or record title to said Emma E patented lode mining claim, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada, as trustee for said Roberts Mining and Milling Co., a corporation, plaintiff herein.

7th. That said defendant, M.J. Hough, and all persons and/or corporations claiming through or under said defendant, M.J. Hough (other than said Roberts Mining and Milling Co., a corporation), be, and they hereby are, forever and perpetually debarred, restrained and enjoined from asserting any right, title or interest in or to said Emma E patented lode mining claim, or any part thereof, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada.

8th. That the defendant, M.J. Hough, -concurrently with the dismissal of said action of Katherine McCormick vs. M.J. Hough and Minnie J. Hough, et al, No.2327, pending in the above entitled court, and upon the payment to said defendant, M.J. Hough, or upon the payment into the office of the clerk of the above entitled court, for the use and benefit of said M.J. Hough, of the said sums of \$630.80, with interest thereon at 7% per annum from November 29, 1933, to date of payment, and the sum of \$140, with interest thereon at 7% per annum from the 17th day of January, 1933, to date of payment, and the sum of \$49, with interest thereon at 7% per annum from June 14, 1934, to date of payment, - make, execute, acknowledge and deliver to Roberts Mining and Milling Co., a corporation, plaintiff herein, a good and sufficient deed, conveying to said Roberts Mining and Milling Co., a corporation, said Emma E patented lode mining claim and its appurtenances, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada; that in default of the execution and delivery of said deed, as aforesaid, by said defendant, M.J. Hough, Clerk of the above entitled Court be, and he hereby is, appointed, authorized, designated and empowered to make, execute, acknowledge and deliver to said plaintiff, Roberts Mining and Milling Co., a corporation, a good and sufficient deed, for and on behalf of said defendant M. J. Hough, conveying to said Roberts Mining and Milling Co., a corporation, said Emma E patented lode mining claim and its appurtenances, situated in Mill Canyon, Cortez Mining District, Eureka County, Nevada; and said deed, when so made, executed and delivered by said Clerk of the above entitled Court, shall vest in said plaintiff, Roberts Mining and Milling Co., a corporation, all the right, title, claim and interest of, or that passed to, or was or became vested in, said defendant, M.J. Hough, in and to said Emma E patented lode mining claim, situated in Mill Canyon, Cortez Mining District, Eureka County, Nevada, under and by virtue of said execution sale on October 9, 1933, had pursuant to that certain judgment, made and rendered, in favor of plaintiff, M. J. Hough, in said action No.2264, herein mentioned, pending in the above entitled court, wherein said M.J. Hough and Minnie J. Hough were the plaintiffs and the Reserve Gold Mining Company, a corporation, was the defendant, or the said "Certificate of Sale" of date October 9, 1933, issued by the said Sheriff, pursuant to said execution sale, or under and by virtue of said Sheriff's Deed of Conveyance, of date June 9, 1934, of said Emma E lode mining claim to said M. J. Hough; and that this judgment and decree shall have the effect and operation, at law and in equity, of such conveyance, so as to vest the title to said Emma E patented lode mining claim and its appurtenances, situate in Mill Canyon, Cortez Mining District, Eureka County, Nevada, in said Roberts Mining and Milling Co., a corporation, in fee simple.

9th. That the plaintiff herein, and that the defendants, M.J. Hough and Minnie J. Hough, herein, each pay their respective costs and expenses herein incurred.

DONE in open Court this the 14th day of December, 1936.

J. M. Lockhart
District Judge Presiding.

Service of the foregoing "Final Judgment and Decree", by copy, admitted this _____ day of December, 1936.

Attorney for Defendants, M.J.
Hough and Minnie J. Hough.

STATE OF NEVADA,
ss.
County of Eureka.

I, ED. DELANEY, County Clerk and ex-officio Clerk of the Third Judicial District Court of the State of Nevada, in and for Eureka County, said court being a court of record, having a common law jurisdiction, and a clerk and a seal, do hereby certify that the foregoing is a full, true and correct copy of the original "Final Judgment and Decree", which now remains on file and of record in my office at Eureka, in said County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court at Eureka, this 18th day of December, A.D. 1936.

(Seal of Court)

Ed Delaney
Clerk
By _____
Deputy

Recorded at the request of Prince A. Hawkins Dec. 19, A.D. 1936 At 16 minutes past 9 A.M.

Peter Merialdo----Recorder.