

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF

THE STATE OF NEVADA, IN AND FOR THE COUNTY OF EUREKA

KENNETH P. STENTON and

EARLENE STENTON, husband

and wife,

Plaintiffs,

vs.

G. S. WIGGINS, also known as

GILBERT S. WIGGINS, TITLE

INSURANCE AND TRUST COMPANY, a

Corporation, JOHN DOE, JANE DOE,

JOHN DOE CORPORATION, and all

unknown heirs or successors of

any or all of the above named

Defendants and all other persons

or entities unknown claiming any

any right, title, estate, lien

or interest in the real property

described in the Complaint

adverse to the Plaintiffs'

ownership, or any part thereof,

or any cloud upon Plaintiffs'

title thereto,

Defendants.

The above-entitled cause coming on duly and regularly for

trial this 28 day of JAN., 1998, before the above-entitled

Court, without a jury, Plaintiffs being represented in Court by

their attorney, ROSS P. HARDLEY, of Elko, Elko County, Nevada;

IT APPEARING that all of the Defendants have failed to

answer, plead, appear or file any pleading or motion within the

1 time provided by law, or at all, after having been duly and regu-
2 larly served with Summons and Complaint in the manner provided by
3 law, and the default of the said Defendants, and each of them,
4 having been duly entered;

5 IT FURTHER APPEARING that Plaintiffs, at the time of filing
6 their Complaint herein, filed for record in the office of the
7 County Recorder of the County of Eureka, State of Nevada, a notice
8 of the pendency of this action containing a statement of the object
9 of the action and a particular description of the property affected
10 thereby;

11 IT FURTHER APPEARING that Summons herein has been duly and
12 regularly published in the EUREKA SENTINEL, a newspaper printed and
13 published in the City of Eureka, County of Eureka, State of Nevada,
14 being the County where the said property is situated, at least once
15 a week for a period of four consecutive weeks, as more fully
16 appears from the Affidavit of Publication on file herein; that a
17 copy of the Summons herein (which Summons contained a description
18 of the real property affected by this action) was posted in a
19 conspicuous place on each separate parcel of the property described
20 in the Complaint within thirty days from the issuance of said
21 Summons, as more particularly appears from the Affidavit of Posting
22 on file herein; that all Defendants not personally served have been
23 duly and regularly served by publication and mailing and in the
24 manner required by the Order for Publication of Summons on file
25 herein, as more fully appears from the Affidavit for Publication of
26 Summons and Order for Publication of Summons and Affidavit of
27 Mailing on file herein; that all of the provisions of Sections
28 40.090 and 40.100, NRS, have been fully complied with;

1 That as more fully appears from the Affidavit of ROSS P.

2 BARDLEY, Attorney for Plaintiffs, on file herein, since the com-

3 mencement of this action, Plaintiffs have neither learned the name

4 or names of any Defendants impleaded herein as unknown Defendants,

5 nor received any information indicating a line of search or inquiry

6 which, if properly pursued, might lead to the discovery of such

7 name or names, and that the same still remain unknown to Plain-

8 tiffs, although diligent search and inquiry have been made by or in

9 behalf of Plaintiffs, and resulted in failure to learn such name or

10 names, and that the same are still unknown to Plaintiffs.

11 IT FURTHER APPEARING through documentary and oral proof

12 presented to the Court that all of the facts, things and matters

13 set forth in Plaintiffs' Complaint are true and the Court hereby

14 finds as follows:

15 FINDINGS OF FACT

16 I.

17 That the following described real property is situate in the

18 County of Eureka, State of Nevada:

19 TOWNSHIP 22 NORTH, RANGE 54 EAST, MDB&M.

20 Section 7: SE $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 18: E $\frac{1}{2}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$

21 TOGETHER with all water and water rights pertaining
22 to said property, including Water Permit #19996 and
23 Permit # 32890 issued by the Nevada State Engineer's
24 Office.

25 TOGETHER with any and all buildings and improvements
26 thereon.

27 TOGETHER with the tenements, hereditaments and appur-
28 tenances thereto belonging or in anywise appertain-
ing, and the reversion and reversions, remainder and
remainders, rents, issues and profits thereof.

1 SUBJECT, HOWEVER, to the following Deeds of Trust:

2 Deed of Trust dated February 27, 1980, executed by
3 Kenneth P. Stenton and Earlene Stenton, as Trustors,
4 Farmers Home Administration, Trustee, and United
5 States of America acting through the Farmers Home
6 Administration, Beneficiary, which Deed of Trust was
7 recorded on February 28, 1980, in Book 79, Page 240,
8 Official Records, Eureka County Recorder's Office,
9 Eureka, Nevada, File No. 72674.

10 Deed of Trust dated April 14, 1981, executed by
11 Kenneth P. Stenton and Earlene Stenton, as Trustors,
12 Farmers Home Administration, Trustee, and United
13 States of America acting through the Farmers Home
14 Administration, Beneficiary, which Deed of Trust was
15 recorded on April 17, 1981, in Book 94, Page 119,
16 Official Records, Eureka County Recorder's Office,
17 Eureka, Nevada, File No. 80147.

18 Deed of Trust dated January 2, 1980, executed by
19 Kenneth P. Stenton and Earlene Stenton, as Trustors,
20 to Title Insurance and Trust Company, Trustee, and
21 Florence M. Stenton, a widow, Beneficiary, which
22 Deed of Trust was recorded on September 29, 1980, in
23 Book 87, Page 458, Official Records, Eureka County
24 Recorder's Office, Eureka, Nevada, File No. 76884.

16 II.

17 The plaintiffs, KENNETH B. STENTON and EARLENE STENTON,

18 husband and wife, are now and by themselves and their predecessors
19 in interest, have been continuously for more than fifteen (15)

20 years next preceding the filing of the Complaint in this action in
21 the actual, exclusive, continuous, uninterrupted, open, notorious,
22 visible, peaceful and adverse possession of said real property,
23 claiming to own and hold the same against the world.

25 III.

26 Plaintiffs and/or their predecessors in interest have for

27 more than five (5) years next preceding the filing of the Complaint
28 in this action paid all taxes of every kind levied or assessed or

1 due against the said real property or appurtenances thereto, or any
2 part thereof.

IV.

3 The obligation secured by a certain Deed of Trust dated May
4 16, 1966, and recorded May 23, 1966, in the Office of the County
5 Recorder of Eureka County, Nevada, in Book 10, Page 526, Official
6 Records, File No. 42065, wherein Fred J. Stenton, Florence M.
7 Stenton and Kenneth P. Stenton are Trustors, Title Insurance and
8 Trust Company is Trustee, and James G. Moncur and Margaret B.
9 Moncur are the Beneficiaries; and the beneficial interest of which
10 was assigned to G. S. Wiggins by written Assignment dated May 15,
11 1974, and recorded in Book 48, Page 6, Official Records, Eureka
12 County, Nevada, under File No. 58439, has in fact been fully paid
13 or otherwise satisfied, and neither the Trustee nor the Benefici-
14 aries, nor the Assignee, G. S. Wiggins, of said Deed of Trust have
15 any further right, title, claim, lien or other interest in the
16 above described property by reason of said Deed of Trust or the
17 assignment thereof.

V.

18 That the Defendants named herein, nor any of them, nor any
19 other persons, have any right, title, estate, lien or other inter-
20 est whatsoever in, to or upon said real property, or any portion
21 thereof, superior to the Plaintiffs.

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CONCLUSIONS OF LAW

From the foregoing findings of fact, the court concludes

that the plaintiffs, KENNETH P. STENTON and EARLENE STENTON,

husband and wife, are the owners of and entitled to the possession

of the above described real property and that the Defendants, nor

any of them, nor any other person, have any right, title, interest,

lien or other claim in or to the said real property above

described.

DEGREE QUIETING TITLE

NOW THEREFORE, the court having made its findings of fact

and conclusions of law, and good cause appearing therefor, IT IS

HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the plaintiffs, KENNETH P. STENTON and EARLENE

STENTON, husband and wife, are the owners in fee simple absolute of

the hereinafter described real property, as community property with

right of survivorship, and are entitled to the possession thereof;

and that the plaintiffs' title to said real property is hereby

quieted, established and settled as against any and all persons and

against the whole world.

That the real property hereinabove referred to and the

title to which is hereby established and quieted in the name of the

plaintiffs as set forth above, is that certain real property

situate in the County of Eureka, State of Nevada, and more particu-

larly described as follows, to-wit:

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Section 7: SE $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 18: E $\frac{1}{2}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$

TOGETHER with all water and water rights pertaining to said property, including Water Permit #1996 and Permit #32890 issued by the Nevada State Engineer's Office.

TOGETHER with any and all buildings and improvements thereon.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

SUBJECT, HOWEVER, to the following Deeds of Trust:

Deed of Trust dated February 27, 1980, executed by Kenneth P. Stenton and Earlene Stenton, as Trustees, to United States of America acting through the Farmers Home Administration, Trustee, and United States of America acting through the Farmers Home Administration, Trustee, in Book 79, page 240, Official Records, Eureka County Recorder's Office, Eureka, Nevada, File No. 72674.

Deed of Trust dated April 14, 1981, executed by Kenneth P. Stenton and Earlene Stenton, as Trustees, to United States of America acting through the Farmers Home Administration, Trustee, and United States of America acting through the Farmers Home Administration, Beneficiary, which Deed of Trust was recorded on April 17, 1981, in Book 94, page 119, Official Records, Eureka County Recorder's Office, Eureka, Nevada, File No. 80147.

Deed of Trust dated January 2, 1980, executed by Kenneth P. Stenton and Earlene Stenton, as Trustees, to Little Insurance and Trust Company, Beneficiary, which Deed of Trust was recorded on September 29, 1980, in Book 87, page 458, Official Records, Eureka County Recorder's Office, Eureka, Nevada, File No. 76884.

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this action.

2. That none of the Defendants herein named, nor any of them, nor any of the unknown Defendants, nor any other person or persons, nor anyone holding by, through or under them, has or have any right, title, interest, estate, lien or other claim in or to the above described real property, or any part thereof, and said Defendants, and each of them, and all persons claiming through or under them, hereby are perpetually enjoined, restrained and barred from claiming or asserting any estate, interest, title, right, lien, claim or possession in or to said real property, or any part thereof, adverse to the Plaintiffs herein.

3. That the Deed of Trust dated May 16, 1966, and recorded May 23, 1966, in the Office of the County Recorder of Eureka County, Nevada, in Book 10, Page 526, Official Records, File No. 42065, executed by Fred J. Stenton, Florence M. Stenton and Kenneth P. Stenton as Trustors, to Title Insurance and Trust Company, as Trustee, and James G. Moncur and Margaret B. Moncur as Beneficiaries, and the beneficial interest of which was assigned to G. S. Wiggins by written Assignment dated May 15, 1974, and recorded in Book 48, Page 6, Official Records, Eureka County, Nevada, under File No. 58439, is hereby declared paid, satisfied, discharged and reconveyed to the Plaintiffs herein, and no longer constitutes a lien on the above described property; and neither the said Trustee, nor the Beneficiaries, nor the Assignee, G. S. Wiggins, have any further right, title, claim or interest in said property by reason of said Deed of Trust, nor for any other reason.

4. Plaintiffs shall bear their own costs and expenses of

SO ORDERED this 28 day of JAN., 1998.

1st MARY M. BLOTT
DISTRICT JUDGE

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BOOK 317 PAGES 69

169686

FILE NO. 169686
M.N. NEVADA RECORDED
FEE \$ 15.00
SEVENTH JUDICIAL DISTRICT COURT NEVADA

RECORDED AT THE REQUEST OF
ROD P. SANDLEY
98 FEB - 4 PM 1:26
BOOK 317 PAGE 561
OFFICIAL RECORDS

SEVENTH JUDICIAL DISTRICT COURT }
IN AND FOR COUNTY OF EUREKA }
STATE OF NEVADA }
I the undersigned COUNTY CLERK and Ex-Officio }
CLERK of the SEVENTH JUDICIAL DISTRICT COURT do hereby CERTIFY }
that the foregoing is a full, true and correct copy of the original on file in }
my office and that I have carefully compared the same with the }
original }
WITNESS, My Hand and Seal of said }
DISTRICT COURT, this 28th day of JANUARY 1998 }
Mary M. Blott
County Clerk and Ex-Officio Court Clerk }
Mary M. Blott
Deputy Clerk }