

J U D G M E N T R E N D E R E D

J. B. Pumphrey )  
No.243 -vs- )  
R. J. Fuston, et als. )

November 9th, A. D. 1891.

And now on this day this cause coming on to be heard came the plaintiff in person and by attorneys and the defendants in person and by attorneys and neither party demanding a jury the matters of fact as well as of law were submitted to the court and the court having heard the pleadings, evidence and argument of counsel is of the opinion that the plaintiff ought to recover of the defendants the land in controversy. It is therefore considered, ordered and adjudged by the court that the plaintiff J. B. Pumphrey do have and recover of and from the defendants R. J. Fuston, S. B. Johnson, W. A. Jackson, A. McCarty, <sup>A.V.McCarty,</sup> Henry McBroom and J. W. Averett the title and possession of all that certain parcel of land a part of the Thomas Constable League Survey in Stonewall County, Texas, described by metes and bounds as follows, to-wit:

Beginning at a stake from which a mesquite bears N. 56 1/2°; W. 6 vrs. marked L and another bears S. 61°; E. 10 vrs. which is 7300; S. 84 1/2 W. from the N.E. corner of Survey No. two (2) made for B.B.B. & C. R.R. Company. Thence West 5341 vrs. a stake from which a cedar bears N. 1° W. 19 vrs. and Hagood Mound bears N.33° W., the N.W. corner of the Thomas Constable League Survey; thence South with West boundary line of said Constable League Survey passing the N.W. corner of the ten X bar thus; 10 X, pasture fence at 1248 vrs. to a point on said West boundary line of said Thomas Constable League Survey 12 vrs. South of said N.W. corner of said pasture fence; thence East parallel with the North line of said pasture fence 6573 vrs. to the East boundary line of said Thomas Constable League Survey; thence North with East boundary line of said Survey, passing the N.E. corner of said pasture fence at 12 vrs. and to the N.E. corner of said Thomas Constable League Survey 1248 vrs. from the N.E. corner of said fence; thence West 1232 vrs. with the North boundary line of said Constable Survey to the beginning, containing 1440 acres of land and being the same land described in plaintiff's first amended original petition filed November 9th, 1891, and plaintiff shall have his writ of possession as hereinafter provided. It further

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appearing to the court that defendants have had adverse possession in good faith of said premises for one year next before the commencement of this suit and that they have made valuable and permanent improvements on said lands during the time they and those under whom they claim have had such possession as follows:

R. J. Fuston improvements of the value of \$340 00/100; S. B. Johnson improvements of the value of \$195 00/100; A. McCarty who is also the owner of the improvements made by A. V. McCarty which are included in this estimate \$681 80/100; Henry McBroom improvements of the value of \$645 80/100; J. W. Averett improvements of the value of \$395 40/100; W. A. Jackson improvements of the value of \$60 00/100, making the aggregate amount of said improvements of the value of twenty-three hundred and eighteen dollars (\$2318.). It is considered by the court that the defendants except the defendant A. V. McCarty ought to have and recover of and from the plaintiff the said sum of twenty-three hundred and eighteen dollars (\$2318). It is therefore ordered, adjudged and decreed by the court that the defendants R. J. Fuston, S. B. Johnson, A. McCarty, Henry McBroom, J. W. Averett and W. A. Jackson do have and recover of and from the said J. B. Pumphrey the said sum of twenty-three hundred and eighteen dollars (\$2318) for said improvements and that said A. V. McCarty take nothing by his plea for improvements. It is ordered that no writ of possession issue on this judgment for the term of one year after date hereof unless the plaintiff shall pay to the clerk of this court for said defendants, except A. V. McCarty, the amount of said judgment in favor of said defendants with interest thereon at the rate of six per cent per annum. If the plaintiff shall neglect for the term of one year to pay over the amount of said judgment in favor of defendants with interest thereon as aforesaid and defendants or either of them except A. V. McCarty shall within six months after the expiration of said year pay to the clerk of this court for the plaintiff the value of said premises which is established and fixed at four thousand three hundred and twenty dollars (\$4320) without regard to said improvements, then the plaintiff shall be forever barred of his writ of possession and from ever having or maintaining any action against defendants or either of them, their heirs or assigns for the said premises described in this suit.

If the defendants or their legal representatives shall not within



the six months aforesaid pay over to the clerk of this court for the plaintiff the estimated value of the said premises as aforesaid, then the plaintiff may sue out his writ of possession.

It is further ordered and adjudged by the court that the plaintiff do have and recover of and from the defendants all costs by him incurred in this behalf for which let execution issue.

Plaintiff in open court excepted to this judgment and gave notice of appeal to the Supreme Court of the State of Texas; Defendants also excepted and gave notice of appeal.

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JUDGMENT OF SUPREME COURT,-

Rendered June 9th, 1892.

R. J. F u s t o n e t a l

Mo.#1367 - No.8488 vs Certificate from Stonewall County.

J. B. P u m p h r e y

In this cause the appellant having failed to file a transcript of the record within the time prescribed by law, and the appellee having filed a certified copy of the judgment and appeal bond, together with the certificate of the clerk of the court below, and moved this court for an affirmance of said judgment, and the same being inspected, it is considered, adjudged and ordered that said motion be sustained, and the judgment of the court below be in all things affirmed without reference to the merits: that appellants, R. J. Fuston, S. B. Johnson, A. McCarty, A. V. McCarty, Henry McBroom, J. W. Averett, and W. A. Jackson and their sureties, Joe L. Haskew and J.M. Moore pay all costs in this behalf expended, and this decision be certified below for observance.

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Clerk's Office, Supreme Court.

I, Chas. S. Morse, Clerk of the Supreme Court of Texas, hereby certify that the above and foregoing three pages contain a true and correct copy of the judgment of the District Court of Stonewall County, rendered November 9, 1891, and of the judgment of the Supreme Court entered June 9, 1892, in cause No.8488 (Mo. No.1367) entitled R. J. Fuston et al, Appellants, vs. J. R. Pumphrey, Appellee as the same now appears on file and of record in my office.

Witness my hand and the seal of said court this the 1st day of October, A.D. 1901.



*Chas. S. Morse*  
Clerk.

By *J. J. Connerly*  
Deputy.

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No. 8488

*St. Louis Mo*  
R. J. Fuston et al

vs.

J. B. Humphrey

Certified Copy judg-  
ment of Dist. Ct  
and Supreme Ct.

11/9/91

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JP