

In the Court of Claims.

ELLEN CHAPLIN
vs.
THE UNITED STATES. } No. 17,568.

And now at this day comes the petitioner above named and gives the court now here to understand and know and be informed that John F. Chaplin, Sr., deceased, intestate, named in said petition, was also interested in divers other parcels of real estate in the Parish of St. Helena, in the State of South Carolina, which were erroneously omitted from her petition originally filed; and that she is informed that Clarence W. Chaplin, Albert V. Chaplin, Walter H. Chaplin, Anna H. Minott, and Julius E. Chaplin have or claim or are entitled to certain interests in the said lands in common with your petitioner, together with other persons, grandchildren and heirs of the said intestate, John F. Chaplin, to your petitioner unknown, and this petitioner, by Monteith, attorney, moves the court for leave to file an amended petition in this cause; and further, that she may have leave to cause a copy of said amended petition to be delivered personally to the said Clarence W. Chaplin, Albert V. Chaplin, Walter H. Chaplin, Anna Minott, and Julius E. Chaplin, and upon the said grandchildren of the said intestate

when they shall be discovered, that they may come in and join in this proceeding and take such action in respect to their rights and interests herein as they may be advised.

WM. J. VERDIER,
Petitioner's Attorney.
W. S. MONTEITH,
Of Counsel.
JOHN B. COTTON,
Asst. Atty. Genl.

Allowed.

W. A. RICHARDSON,
Chief Justice Court of Claims.

IN THE UNITED STATES COURT OF CLAIMS.

ELLEN CHAPLIN
vs.
THE UNITED STATES. } No. 17,568.

Amended Petition.

To the Honorable, the Judges of the said Court:

Your petitioner above named, by leave of the court, first had and obtained by this amended petition, respectfully shows:

1. That John F. Chaplin, Sr., in his lifetime, was seized and possessed of the following real estate, situate in St. Helena Parish, in the then District, now County, of Beaufort, State of South Carolina, to wit:

(1) Lot C, in block 21, of the town of Beaufort in the plan of said town, as laid out by the United States Direct Tax Commissioners for taxation.

(2) The Wigg Place, sometimes called the Point Place, containing 410 acres.

(3) The tract called "Brick-yard," containing 570 acres.

(4) The John F. Chaplin Place, containing 550 acres.

(5) The plantation called "Oakland," containing 500 acres.

(6) A small island usually regarded as part of the tract called "Brickyard" and known as Tom Island, containing 40 acres.

2. That while so seized and possessed, as aforesaid, of said lands, the United States under the provisions of an act of Congress approved August 5, 1861, levied a direct tax upon the said land, and the same not being paid, penalties, costs, and interests added thereto, and in default of payment thereof, the same was sold and purchased by the United States and others, and are now held adversely to the title of the said John F. Chaplin, Sr.

3. That lot C, in block 21, was assessed by the United States Direct Tax Commissioners for taxation at \$5,000, and the tax assessed thereon was \$40.

4. That all of the said lands above described, except lot C, in block 21 were returned for taxation by the said John F. Chaplin, Jr., upon the proper tax book for the State of South Carolina, and were rated for taxation by said State as being usually cultivated, and the direct taxes assessed thereon by the United States were in gross amount \$155.20.

5. That as your petitioner is informed and believes, a part of the tract known as Brickyard has been redeemed, but she is not advised how much or what portion, but with this exception neither the said John F. Chaplin, Sr., in his lifetime, nor any of the persons interested therein since his death have redeemed any part of the said land, nor applied for any surplus proceeds, or received anything on account of the said lands, so far as your petitioner knows and believes.

6. That said John F. Chaplin has departed this life intestate, and has left him surviving, as his heirs at law and distributees, the following persons, viz.: Your petitioner, Ellen Chaplin, his widow; Clarence W. Chaplin, Albert V. Chaplin, Walter H. Chaplin, Anna Minott, and Julius E. Chaplin, who are his children now living, and there are certain other persons, grandchildren of the said intestate, who are interested as heirs at law, but who are to your petitioner unknown, but whose names, when discovered, she prays leave herein to insert, with apt words to charge them.

7. That the said Clarence W. Chaplin and Julius E. Chaplin reside at Beaufort, S. C., Albert V. Chaplin and Walter H. Chaplin reside at Savannah, in the State of Georgia, and Anna Minott resides in the city of Charleston, S. C., and the names and residences of the grandchildren referred to are as herein alleged to your petitioner unknown.

8. That about the year 1867, the said John F. Chaplin being then alive, and regarding himself as still the owner and possessed of interests in the lands hereinabove described, sought to make settlement of his estate real or supposed, by deeds executed and delivered in his lifetime, and with such intention he disposed of his interest in all of the lands above described in the following manner, that is to say: By an instrument, a copy of which marked Exhibit "A," is to the original petition in this case attached, he conveys lot C, in block 21, and Tom Island, part of the Brickyard tract, to your petitioner, the said Ellen Chaplin, reserving to himself a like estate, with remainder to your petitioner, the said Ellen, and this was by him intended as a provision for her, in lieu of a devise, and the same was accepted by her, being based upon a good and sufficient consideration recited in said instrument, and by other deeds and instruments, the particu-

lars of which are unknown to your petitioner, he likewise sought to convey his interest in the other of said lands to his said children, and this was intended by him as a settlement of his estate, as he then proposed it to be and regarded it.

9. That your petitioner is willing to accept the provisions of this settlement, and desires to have the same carried into effect, but she is advised that said deeds, so far as they amount to valid and sufficient conveyances, are inoperative, and carry no interest or estate, because at the time of the execution of said conveyances, deeds, mortgages, and instruments, the said John F. Chaplin really possessed no interest whatever in any of the said lands or in said lot C, block 21, having been divested of all right, title, and interest therein by the direct tax proceedings herein above referred to, and she is further advised that in order to have the benefit accruing to her as one of the heirs at law of the said intestate, being his widow, which accrues to her and his other heirs at law under the provisions of the act of Congress approved March 2, 1891, entitled "An act of credit and pay to the several States and Territories and the District of Columbia, all moneys collected under the direct tax act approved August 5, 1861," she will be obliged to disregard the said deeds, conveyances, instruments, and mortgages, and bring this action as heir at law in order to recover her interest in the provision made by said act for the heirs at law of the said John F. Chaplin, Sr., deceased, she being one of them, and to this end she here avers that she, together with the said Clarence W. Chaplin, Albert V. Chaplin, Walter H. Chaplin, Anna Minott, and Julius E. Chaplin, and the grandchildren above referred to when discovered, being the heirs at law of said John F. Chaplin, are entitled to receive from the United States, according to the provisions of the act of Congress in that behalf,

UNITED STATES OF AMERICA, }
 District of Columbia.

Personally came Walter S. Monteith, who being first duly sworn, stated on oath that the foregoing petition is true to his knowledge, except as to matters stated therein upon information derived from others, and as to those matters he believes them to be true.

W. S. MONTEITH.

Sworn to before me May 23, 1892.

[SEAL.]

JOHN RANDOLPH,
Atst Clk, Ct. of Claims.

provided payment for said lands in manner following, that is to say: One-half of the appraised value for taxation of lot C, \$2,500, less \$40 taxes thereon; and \$5.00 per acre for 1,558 acres of land, the number of acres so returned upon the proper tax books of the State of South Carolina as being usually cultivated, being in all \$10,290.00, less \$195.20 direct taxes, upon their executing to the United States a proper release; and that one-third thereof belongs to your petitioner, to which she is entitled, and being so entitled, she has applied to the Secretary of the Treasury, and requested to be paid the sum arising and due to her, which she was willing to accept in settlement of her demand, and has tendered the proper release, and requested that the same be paid to her with this request; that said Secretary has refused to comply, and the said Clarence W. Chaplin and Albert V. Chaplin and Walter H. Chaplin, Anna H. Minott, and Julius E. Chaplin, have failed or neglected to join in this or any other proceedings, to obtain their rights in common with your petitioner.

Wherefore your petitioner prays that she may have judgment as follows: For one-third of one-half of the appraised value of lot C in block 21, less \$40 taxes; that is to say, for the sum of \$820, and for one-third of the value of 1,558 acres of land, at \$5.00 per acre, less \$155.20 taxes; that is to say, \$2,514.93. In all, for the sum of \$3,364.93.

And your petitioner will ever pray.

W. J. VERDIER,
Petitioner's Attorney.
 W. S. MONTEITH,
Of Counsel.