ANSWER

58CV-2019-125

John Andrew Justice

102 Park Pl, Russellville, AR 72802

870-740-7957

Defendant, John Justice

Circuit Court, County of Pope

[Division 4]

Bill Tucker, Annette Koch, Mary Hopper, James Tucker, Donnie Dunlap and Daniel Dunlap No. 58CV-2019-125

Plaintiff(s)

vs.

Edward Dale Petty, Stephanie Petty, Justice Home and Land LLC, and John Andrew Justice, Sole Member and Manager of Justice Home and Land LLC.

Defendant(s)

ANSWER TO COMPLAINT

58CV-2019-125

John Andrew Justice, Defendant, answers the complaint for Easement by Prescription and establishment of private driveway, in this action as follows:

RESPONSE TO PRELIMINARY ALLEGATIONS

In answer to paragraph 1, Defendant admits himself (John Andrew Justice) as the registered agent and sole member of Justice Home and Land LLC and is acting in his individual capacity in this answer. Defendant is without sufficient information to admit or deny the remaining allegations in this paragraph.

In answer to paragraph 2, defendant is without sufficient information to admit or deny the allegations in this paragraph.

In answer to paragraph 3, defendant is without sufficient information to admit or deny the allegations in this paragraph.

In answer to paragraph 4, defendant is without sufficient information to admit or deny the allegations in this paragraph.

In answer to paragraph 5, defendant admits that the Commissioner of State Lands of the State of Arkansas provided a tax forfeiture deed in May of 2015. The Defendant also provides that the current land is only currently unimproved with exception to a dilapidated house structure and well pump house. Defendant is without sufficient information or belief to admit or deny the remaining allegations in this paragraph.

In answer to paragraph 6, defendant is without sufficient information or belief to admit or deny the allegations in this paragraph. Based on this lack of information or belief, defendant denies the allegations.

In answer to paragraph 7 Defendant admits "open" use of the gravel path; defendant denies the remaining allegations in this paragraph.

FIRST AFFIRMATIVE DEFENSE

Defendants deed was provided under §26-37-101, Transfer of tax-delinquent lands. Upon receipt of the certification, title to the tax delinquent lands shall vest in the State of Arkansas in care of the Commissioner of State Lands. All requirements including public notification were met. John Justice purchased the land at auction with no other bids presented. The defendant claims that the exclusion of any competitive bid provides evidence that no interested party including the Plaintiff intended to acquire the property or use of the property including the gravel section. The purchase price was $755.04.

SECOND AFFIRMATIVE DEFENSE

Defendant acquired the property with indeterminate plans for future construction and considers the use of the gravel path open (non-hostile) and permissive. Defendant has not marked nor excluded the free travel across the property by any individuals in any manner.

THIRD AFFIRMATIVE DEFENSE

Defendant believes that no preponderance of evidence as to the Adverse or Hostile use of the driveway in the claimed in excess of 50yr window has been presented. Defendant considers the use and access permissive until which time the property is intended to be improved. There is no evidence that any prior use of the driveway was not permissive in nature and in light of the claimed period in which a similar complaint could have been provided (in excess of 50yr) it is doubtful such permission was not given.

FOURTH AFFIRMATIVE DEFENSE

At purchase, the state’s interest in the land was conveyed to Justice Home and Land (John Justice). Defendant claims that one cannot adversely possess state land and prior to the transfer any claim of continuous adverse use would have been broken by the ownership of the State prior to transfer.

FIFTH AFFIRMATIVE DEFENSE

Defendant provides further doubt as to the adverse and hostile use within the 50yr window as evidence (dilapidated structure and pump house) exists on my property within plain sight of the described gravel path and has components and debris (trash with dates) showing occupancy within the claimed excess of 50yr window. It is doubtful construction and use of a gravel drive would be anything other than permissive in the directly observed side yard of the dwelling.

WHEREFORE, defendant requests judgment as follows:

That plaintiff take nothing by the complaint, which will be dismissed with prejudice.

That defendant recover from plaintiff damages in the amount of $500.

That the Court order further reasonable relief.

Date: \_\_\_\_\_\_\_\_\_\_\_

Signature, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(John Andrew Justice)

State of Arkansas,

County of Pope

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_,2019

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