

RENDERED: NOVEMBER 26, 2008; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2007-CA-001612-MR

MARK WHITE; SUSAN WHITE;  
JAMES W. WHITE AND UNKNOWN  
SPOUSE; JOHN E. WHITE AND  
UNKNOWN SPOUSE; JOYCE WHITE  
AND UNKNOWN SPOUSE; THOMAS J.  
WHITE AND UNKNOWN SPOUSE;  
TIMOTHY P. WHITE AND UNKNOWN  
SPOUSE; WALLY WHITE AND  
UNKNOWN SPOUSE; AND  
PIKE LETCHER LAND COMPANY

APPELLANTS

v.

APPEAL FROM PIKE CIRCUIT COURT  
HONORABLE EDDY COLEMAN, JUDGE  
ACTION NO. 03-CI-00719

DENNIE WILLIAMSON; AND  
LOIS WILLIAMSON

APPELLEES

OPINION  
REVERSING AND REMANDING

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BEFORE: COMBS, CHIEF JUDGE; NICKELL, JUDGE; GRAVES,<sup>1</sup> SENIOR JUDGE.

GRAVES, SENIOR JUDGE: This is an appeal from a boundary determination in which the trial court quieted title in favor of the appellees. We reverse and remand for additional findings.

This appeal involves property that is located under the ridgeline of a mountain where the watersheds of Long Fork and Shelby Creek meet. Long Fork is located on the right side of the mountain and Shelby Creek is located on the left side. Specifically, the disputed property is approximately 75 feet wide and 800 feet long and is situated just under the top of the ridge on the Shelby Creek side.

The Williamsons, appellees, brought suit to quiet title to the disputed property and for damages resulting from the removal of timber. The appellees traced their title through mesne conveyances to a patent issued in 1859 which is known as the Mullins survey. The Whites, appellants, traced their title to a claimed common grantor, Sherwood Osborne, and through a patent known as the Tackett survey. Experts testified on behalf of both parties. The trial court found that the disputed property was located within the Mullins survey which bordered the ridgeline between Shelby Creek and Long Fork. The trial court further found that the Whites' title only encompassed property located within the Tackett survey. The Williamsons presented no evidence of damages for the removed timber and, therefore, were awarded zero damages. The trial court entered judgment in favor

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<sup>1</sup> Senior Judge J. William Graves sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

of the Williamsons. The Whites made a motion for additional findings and to alter or amend the judgment on the basis that the trial court ignored evidence of paper title to the disputed property. This appeal followed.

The Whites argue that the trial court erred by requiring them to demonstrate proof of title beyond a common grantor. The rule is that title to land may be shown by proof that the land comes from the Commonwealth, by proof of title to a common source with the opposing party, or by proof of adverse possession. *Skaggs v. Ohio Valley Rock Asphalt Co.*, 292 Ky. 758, 166 S.W.2d 1005, 1007 (1942). The trial court found that the Whites' property was encompassed by the Tackett survey and that the Tackett survey did not cross the ridgeline. However, the Whites presented evidence of a separate chain of title on the Shelby Creek side that dates back to Sherwood Osborne, a common grantor to both parties. The trial court only determined the location of the boundary line between the Mullins and Tackett patents. The issue is which party had superior title to the disputed property. We find that a finding of fact with regard to the location and validity of the White's chain of title through Sherwood Osborne is essential to the judgment. Kentucky Rules of Civil Procedure (CR) 52.04.

Therefore, we reverse and remand for further proceedings consistent with this opinion.

ALL CONCUR.

BRIEF FOR APPELLANTS:

Lawrence R. Webster  
Pikeville, Kentucky

BRIEF FOR APPELLEES:

Tammy C. Skeens  
Pikeville, Kentucky