

## CITY OF JONESBORO v. AGEE.

5-3140

374 S. W. 2d 827

Opinion delivered February 3, 1964.

APPEAL AND ERROR—CHANCELLOR'S FINDINGS—REVIEW ON APPEAL.—The chancellor's finding that the evidence failed to show that 46 ft. of land between a private property line and the quarter section line had been dedicated as a public street held not against the preponderance of the evidence.

Appeal from Craighead Chancery Court, Jonesboro District, *Gene Bradley*, Chancellor, affirmed.

*Frierson, Walker & Snellgrove*, for appellant.

*W. B. Howard, Jack Segars*, for appellee.

SAM ROBINSON, Associate Justice. The City of Jonesboro filed this suit asking for a declaratory judgment to the effect that the east boundary line of the private property in Block 52 of Knight's Second Addition to the City of Jonesboro is 46 feet west of the quarter section line between the northeast quarter and the northwest quarter of Section 19, Township 14 North, Range 4 East; and that the 46 feet between such alleged property line and the quarter section line has been dedicated as a public street. The Chancellor held that the evidence failed to show that the 46 feet in question had been dedicated as a street. We agree.

The original plat of Knight's First and Second Addition to Jonesboro was filed for record in 1891. It shows the private property line on the east side of Block 52 as being 16 feet west of the quarter section line, which is the east boundary line of the addition. Apparently the 16 foot strip was left as an alley. Main Street, which Block 52 adjoins on the west, has a width of 60 feet as shown by the plat, and all the other streets in the addition have a width of 60 feet, except a 30 foot strip was left for streets at the north and south boundaries of the addition, and a 16 foot strip was left as a right of way at the west boundary the same as a 16 foot strip was left at the east boundary.

Appellant bases its claim that there are 46 feet between the quarter section line, which is the east boundary line of the addition involved, and the private property line in Block 52, on a plat filed in 1902 of Culberhouse's Subdivision of various lots in Knight's Second Addition, including Block 52. Unless the plat of Culberhouse's Subdivision is sufficient to show a dedication of land on the east side of Block 52, designated as Church Street in the plat, in addition to the 16 feet shown by the 1891 plat, appellant cannot prevail. The Culberhouse plat is not sufficient to show a dedication of more land on the east side of Block 52 for use as a street than is shown in the 1891 plat of Knight's First and Second Addition.

Apparently there are several errors in the Culberhouse plat. It contains no scale, and yet it appears to be drawn to the scale of one inch to 200 feet. It designates Church Street as adjoining Block 52 on the east, but does not give the width of the street. The plat shows Block 52 as being divided into six lots measuring 200 feet east and west, but if the scale of one inch to 200 feet is used, the lots would measure 220 feet.

According to the original plat of Knight's Additions, Block 52 is 220 feet east and west leaving 16 feet between the end of the block and the section line. This shows a distance of 236 feet from the quarter section line on the east of the addition to the east line of Main Street. Although the Culberhouse plat shows the lots as measuring only 200 feet east and west, there is no showing whether the 20 feet apparently taken from the lots in Blocks 52 was added to Church Street or to Main Street. In fact, from the lines on the Culberhouse plat, the 20 feet appears to have been added to Main Street. There is no way of determining the location of the property shown on the Culberhouse plat except by reference to the original plat, and there is no testimony in the record tying the Culberhouse plat in with the original plat of Knight's Addition in such manner that it can be said that a preponderance of the evidence shows that any land has been dedicated to what is now called Church

Street other than the dedication shown in the original  
plat of Knight's First and Second Addition.

Affirmed.

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