

## WATSON v. CORNISH.

4-9821

249 S. W. 2d 123

Opinion delivered June 2, 1952.

TAXATION—SALE BY STATE FOR DELINQUENT ASSESSMENTS—IMPROPER DESCRIPTION.—Sixty acres were sold for taxes. The description was "Pt. NW  $\frac{1}{4}$  of Sec. 15, Twp. 16 S., Range 23 W." The tax title purchaser contended that because a railroad ran through the quarter section of which the 60-acres were a part, the result was the same as though the forfeited property had been described as fractional. *Held*, the description was void.

Appeal from Lafayette Chancery Court; *R. W. Lavinus*, Chancellor; affirmed.

*Jack Williamson*, for appellant.

*R. T. Boulware*, for appellee.

GRIFFIN SMITH, Chief Justice. Counsel for appellants, with commendable directness, states that the single question is whether a tax sale was valid when the land was described as "Pt. NW  $\frac{1}{4}$  of Sec. 15, Twp. 16 S., Range 23 W., containing 60 acres."

The suit was brought by record owners to quiet title, the contention being that appellants claimed under a clerk's tax deed. The land was sold in 1947 for 1946 delinquencies. It is shown that for 15 or 20 years the land had been owned by the Cornish family and that it had been assessed as a *part* of the northwest quarter, as above shown. The Chancellor found that the sale was

<sup>1</sup> For recent cases involving verdicts claimed to be excessive, attention is called to *Missouri Pacific v. Newton*, 205 Ark. 353, 168 S. W. 2d 812; *C. R. I. & P. Ry. Co. v. Caple*, 207 Ark. 52, 179 S. W. 2d 151; *Ozan Lumber Co. v. Tidwell*, 210 Ark. 942, 198 S. W. 2d 182; *Missouri Pacific v. Duffee*, 212 Ark. 55, 205 S. W. 2d 458; and *East Texas Motor Freight v. Buck*, 213 Ark. 630, 212 S. W. 2d 13. Also there are extensive and exhaustive Annotations, not only on the excessiveness of verdicts, but the inadequacy of verdicts, which Annotations are contained in 16 A. L. R. 2d 3, and 16 A. L. R. 2d 393.

void for want of an identifying description, but directed that appellants recover \$34.22 for taxes, penalties, costs, and interest.

Appellants rely upon the fact that the Cotton Belt Railroad runs through the quarter section, hence the area is thought to be fractional. A number of witnesses testified that they knew where the Cornish lands were and the term *part* was not confusing or indefinite.

A fractional description is good if in fact the designated survey is fractional and the land sold embraces such fraction. See *Price v. Price*, 207 Ark. 804, 182 S. W. 2d 879. In the opinion Mr. Justice KNOX calls attention to numerous decisions “. . . holding that a deed which describes the land as a *part* of a certain quarter section, or other governmental subdivision, without otherwise describing it, is void.”

Affirmed.

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