

an indenture signed by them both, for ninety-nine years, at an annual rent of fifty-three dollars, thereby, in the most formal manner, acknowledging his title. Sewell, the lessor, died in the year 1848, having, by his will, executed shortly before his death, devised the property to the complainant in this case, who, in the year 1849, filed the present bill, and the question to be considered is, whether there has been such laches and delay as will preclude his right to be relieved. Looking to the admissions of the answer in reference to the occupation of the property by Swan, the grantor, and to the evidence, independent of the answer, I am not prepared to say that there has. The deviser, under whom he claims, purchased the land, as the property of Swan the father, and took from the sheriff a deed in 1831. Swan was then certainly in possession, and under such circumstances, and exercising acts of ownership over it, which might well induce Sewell to believe in the validity of his title. In the year 1839, the lease was executed, being a clear recognition by Swan of his lessor's title at that time, and the possession of Swan down to 1842, when he died, under the lease from Sewell, cannot be used against him, because Swan then held, as the tenant of Sewell. Upon the death of Swan in 1842, the defendants, Baxter and wife, take possession and deny the title of Sewell, but the period which intervened from that time to 1849, when the bill in this case was filed, is too brief to prevent a successful assertion of complainant's title, if in other respects it is free from objection.

I think it is, and will, therefore, sign a decree vacating the deed of the 22d of October, 1819, so far as relates to the property purchased by Charles S. Sewell from the sheriff, and which was devised by the former to the complainant, and the deeds of the same property from Baxter and wife to James Parlett and others.

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GEORGE H. BRICE and THOS. S. ALEXANDER for Complainants.

COLEMAN YELLOTT for Defendants.

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[An appeal was taken in this case, which is still depending.]