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power are necessarily in general terms in order not to embarrass the executive within the field of action plainly marked for him, but his jurisdiction must be justified and vindicated by affirmative constitutional or statutory provision, or it does not exist."

LENA M. PHILLIPS, '17.

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IMPORTANT CASES DECIDED BY THE COURT OF APPEALS OF KENTUCKY.

Hardaway v. Webb.

(Decided December 6, 1916.)

Appeal from Letcher Circuit Court.

1. Boundaries—Description—Original Plat as Evidence.—The original plat constituting the basis of a patent is competent as evidence to explain a mistake or ambiguity in the description given by the patent of the land granted, or to supply the omission by such description of a course, distance or object necessary to correctly determine and fix its boundary.

2. Boundaries—Description—Mistake in Call Corrected From Original Plat.—A call in a patent will be corrected to correspond with that given on the original plat where it appears that without the correction certain well defined corners would be missed and the survey would not close.

3. Boundaries—Evidence—Estoppel.—The fact that defendant eighteen years before the institution of the action, when he himself entertained doubt as to his ownership of the land in controversy, failed to object to the cutting by another of timber thereon, did not affect the true location of its boundary or militate against his right to thereafter claim ownership and maintain adverse possession of the land.

4. Appeal and Error—Review—Estoppel—Question of Fact.—Finding of Court—When Not Disturbed on Appeal.—On a plea of estoppel in an equitable action, there being conflicting evidence as to the statements of defendant relied on to establish the estoppel and the chancellor having refused to sustain the plea, this court will not disturb his finding where after review of the evidence it is in doubt as to the truth of the matter.

5. Quieting Title—Proceedings—Evidence.—In an action in equity to quiet title to a disputed boundary, evidence held to establish defendant's title as the superior.

Smith v. Commonwealth Land & Lumber Company, et al.

(Decided December 7, 1916.)

Appeal from Harlan Circuit Court.

1. Appeal and Error—Res Judicata—Pleading.—The petition herein having been held upon a former appeal to state a cause of action in alleging a forfeiture judgment and sale of land under section 4076b of the Kentucky Statutes were void because the affidavit for warning order was insufficient to bring the owner of the forfeited land before the court, the question is res judicata and the propriety of the former ruling cannot be questioned upon this appeal.

2. Corporations—Settlement of Affairs—Defense of Title to Real Estate.—A corporation not engaged in any business except winding up its affairs as such, in which it becomes involved in protracted litigation necessary to the settlement of its affairs, is not precluded from defending its title to real estate, after two years have elapsed from the time fixed in its articles of incorporation for the termination of its corporate existence, when it does not appear more than a reasonable time has been employed in the winding up of its affairs.

3. Deeds—Collateral Attack Upon Commissioner's Deed.—A commissioner's deed regularly executed and approved by the court cannot be attacked in a collateral proceeding unless it shows on its face that it is void.

4. Attachment—Sale of Attached Real Estate—Construction of Statutes.—Section 229 of the Civil Code does not mean that the sale of attached real estate must be made by the sheriff who levied the attachment or of the county in which the land is situated.

5. Liens—Rights and Liabilities of Purchaser of Property.—When a sale of land under section 4076b of the Kentucky Statutes

is adjudged to be void, the purchaser is not entitled to a lien upon the land for the amount of the purchase price, except to the extent of liens discharged by him to which he may be subrogated.

Scott, et al. v Scott, et al.

(Decided December 8, 1916.)

Appeal from Pike Circuit Court.

1. Deeds—Construction—Estates Created—Estates for Life.—Under a deed from a husband to his wife “and her bodily heirs” by him, reciting that it is made in consideration of his love and affection for his wife and children, the term “bodily heirs” was evidently used synonymously with “children,” and the deed must be construed as granting to the wife an estate for life with remainder to her children by the grantor.

2. Fraudulent Conveyances—Notice—Purchasers for Value—When Protected—Limitation.—A conveyance which is actually fraudulent as to the grantor’s creditors is void as to subsequent purchasers for value, such purchasers not being affected by either actual or constructive notice of the conveyance, and a conveyance which is merely voluntary and, therefore, only constructively fraudulent, is void as to such purchasers, unless they have actual notice of the conveyance, constructive notice not being sufficient to affect them. But the protection thus afforded to purchasers for value is only for a limited period, and whether the conveyance be actually or constructively fraudulent, the title of the grantee is perfect after the lapse of ten years, as any action to set aside such a conveyance is barred after that time, and a purchaser is then as much bound to take notice of the prior voluntary or fraudulent conveyance as if the grantee had been an innocent purchaser for value.

Parsons, et al. v Dils.

(Decided December 15, 1916.)

Appeal from Pike Circuit Court.

1. Adverse Possession—Extent of Adverse Possession.—Where several tracts of land, though separately described, are

conveyed by the same person and embraced in the same deed, and are contiguous to each other, adverse possession for the statutory period of one of the tracts so conveyed will extend to the whole.

2. Adverse Possession—Extent of Adverse Possession.—Two tracts of land are contiguous to each other which have a common corner, although their lines do not touch elsewhere, it being possible to step from one to the other without crossing other lands.

3. Adverse Possession—Sufficiency of Evidence.—Evidence examined and held to be sufficient to support the finding of adverse possession for the statutory period by the appellees.

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