

Analysis of Title

Tract 148.

J. A. Morris - 89.71 Acres.

This tract is covered by the following grants:

Grant No;	3256
"	630
Tract	510 (no grant found)
"	294 (no grant found)

1. Grant No. 3256 was issued to James H. Wiggins on November 27, 1871, containing forty-one acres. This grant is recorded in Swain County and is set out on page 463 of the abstract of the title to tract 148-a.

2. Grant No. 630 was issued to Abraham Wiggins on October 2, 1841. It lies on both sides of Deep Creek and covers a portion of tract 148 lying west of Deep Creek. This grant is recorded in Jackson County and is fully set out on page 462 of the "abstract of 148-a.

3. No deed is found from Abraham Wiggins for this tract but it has been in long continuous adverse possession for more than half a century by James H. Wiggins and those claiming under him. The title to this tract apparently became vested in James H. Wiggins sometime prior to 1876.

4. James H. Wiggins and wife P. L. Wiggins by deed dated March 8, 1876, conveyed to W. L. Morris a tract of sixty acres covering portions of grant 3256 and 630 and including that part of tract 148 embraced within said grant. This deed is recorded in Swain County and is set out on page 465 of the "abstract of 148-a.

NOTE: The title from W. L. Morris to the present owner, J. A. Morris, will be shown in further paragraphs of this analysis.

TRACTS NOS. 510 and 2944.

5. So far we have been unable to find grants covering these tracts. They cover that portion of Tract 148 lying north of grant 3256 and south of the line of grant 630.

6. The first conveyance we have for the above named area is a deed from John A. Millsaps to W. L. Morris dated March 1, 1871, this deed conveying two tracts of land, the first referred to is No. 510 entered by William Shuler and conveyed to John A. Millsaps. The other conveyed by this deed referred to is No. 2944 is for fifteen acres, lying north of the line of Grant 3256 and including a portion

of the northern part of tract 148. This deed is recorded in Swain County and is set out on page 438 of the abstract of title to tract 148.

7. We then have a deed from W. L. Morris and wife, S. L. Morris to J. A. Morris dated November 16, 1912 conveying a tract of seventy-five acres, which covers all of tract 148. This deed contains a provision that the said J. A. Morris is to take care of the said W. L. Morris and wife, S. L. Morris during their natural lives and to give them a residence in the home place. This deed is recorded in Swain County and is set out on page 518 of this abstract.

8. W. L. Morris subsequent to the execution of the foregoing deed brought an action in the superior court of Swain County against J. A. Morris in which it was alleged that the actual consideration for the deed from W. L. Morris to J. A. Morris was \$350.00 to be paid at the rate of \$100.00 per annum and further consideration that the said J. A. Morris should care for the plaintiff and his wife during their natural lives. The complaint recites that the wife of W. L. Morris was then dead and the defendant had failed to pay the money mentioned as a consideration for said deed and had failed and neglected to take care of the said W. L. Morris as provided for in said deed. This action, however, was settled by judgment rendered at the July Term 1921, Superior Court of Swain County in which said deed was validated and said J. A. Morris paying to W. L. Morris the sum of \$100.00 and giving his notes for the remainder. The judgment in this case is recorded in Judgment Docket Book 9, page 592 in the Office of the Superior Court of Swain County. Complaint and judgment are fully set out in this abstract, page 519.

9. Prior to the execution of the deed above from W. L. Morris to J. A. Morris, towit: On February 27, 1905, W. L. Morris and wife, S. L. Morris executed a deed to C. J. Harris in which they conveyed all the kaolin, white and colored china clay, flint, felspar, etc., on the land embraced within tract 148. This deed is recorded in Swain County. Page 524 of this abstract.

10. W. L. Morris also executed a deed to the Champion Fibre Company dated December 13, 1922, conveying a right of way as located as described in said deed, over certain lands on the waters of Deep Creek and apparently affecting tract 148. However, it will be noticed that this deed was dated December 13, 1922, while W. L. Morris and wife had conveyed to J. A. Morris the lands covered by tract 148 by deed dated November 16, 1912. This deed to the Champion Fibre Company is recorded in Swain County and is set out on page 525 of this abstract.

DEEDS IN TRUST

11. The following deeds in trust all of which appear to have been canceled are of record affecting the lands under investigation:

(a) W. L. Morris to Ute Hyde, deed in trust dated April 5, 1900.

(b) J. A. Morris and wife to W. M. Taylor, Trustee, dated November 16, 1912.

(c) J. A. Morris and wife, to W. M. Taylor, Trustee, dated November 16, 1912.

See pages 526-528 of this Abstract.

NORTH CAROLINA PARK COMMISSION

JUDICIAL PROCEEDINGS

1. Proceedings in all courts affecting the title of the lands abstracted must be set forth and attached hereto in chronological order, and in such detail as will show all jurisdictional facts averred in the proceedings, proper parties, sufficient service to bring all necessary parties into court, all orders and decrees up to and including confirmation of sale.

2. When minors, insane persons or any other persons for whom a guardian *ad litem*, committee and such like are required to be appointed, are interested, the appointment and acceptance must be shown; it must appear that all statutory requirements have been complied with. Give names of all plaintiffs and defendants.

W. L. Morris

vs

Joe Morris

1. Court	Superior	County	Swain
2. Kind of action	To cancel deed.		
3. Date of filing	July 1921		
4. Date of filing <i>lis pendens</i>			
5. Judgment recorded in Book	9	Page	592

PROCEEDINGS

JUDGMENT:

This Cause coming on to be heard before his Honor T. D. Bryson, Judge at the July-August term of the Superior Court of Swain County, and it appearing to the court that the said action has been settled and compromised between the parties upon the following terms:

That the said plaintiff withdraws all allegations set forth in his complaint with reference to the defendant's failure to comply with the terms and provisions of the deed mentioned and described in the complaint, and hereby expressly waives any claim or right that he might have the said deed cancelled and set aside, and agrees that judgment may be rendered ratifying and confirming the validity of said deed.

That in consideration of the above covenants and agreements, the defendant agrees to pay to the plaintiff the sum of \$100.00 cash, \$100.00 in one year, \$100.00 in two years and \$100.00 in three years. The same to be secured by notes, and deed of trust on the

All cases and authorities relied upon to cure any defects in this instrument or proceedings thereon or to support any proposition of law must be cited, and short excerpts made therefrom.

land described in the complaint. The said sum in full settlement of any money consideration that was to be paid by him for the lands embraced in said deed. The defendant further agreeing to pay the cost of this action.

It is thereupon considered, ordered and adjudged by the court in pursuance to said compromise, that the said deed mentioned and described in the complaint, be, and the same is adjudged to be valid and binding in every respect upon the parties thereto, and that the title of the said land embraced in said deed vest absolutely in the defendant J. A. Morris.

It is further considered, ordered and adjudged that the plaintiff W. L. Morris have and recover of the defendant J. A. Morris the sum of \$400.00 to be paid as above provided, and that the defendant J. A. Morris pay the cost in this action, to be taxed by the Clerk.

(Signed) T. D. Bryson
JUDGE PRESIDING.

WE CONSENT:

Felix E. Alley-S. W. Black
ATTORNEYS FOR PLAINTIFF

Franklin & Franklin
ATTORNEYS FOR DEFENDANT.

Received of J. A. Morris \$100.00 cash and three notes for \$100.00 each payable in one, two and three years from July 30, 1921, secured by deed of trust of even date in full settlement of the above Judgment.

This July 30, 1921.

(Signed) S. W. Black
ATTORNEY FOR PLAINTIFF.

NORTH CAROLINA PARK COMMISSION

JUDICIAL PROCEEDINGS

1. Proceedings in all courts affecting the title of the lands abstracted must be set forth and attached hereto in chronological order, and in such detail as will show all jurisdictional facts averred in the proceedings, proper parties, sufficient service to bring all necessary parties into court, all orders and decrees up to and including confirmation of sale.

2. When minors, insane persons or any other persons for whom a guardian *ad litem*, committee and such like are required to be appointed, are interested, the appointment and acceptance must be shown; it must appear that all statutory requirements have been complied with. Give names of all plaintiffs and defendants.

W. L. Morris
vs

J. A. Morris

1. Court	County
2. Kind of action	Swain
3. Date of filing	
4. Date of filing <i>lis pendens</i>	August 1920
5. Judgment recorded in Book	Page

PROCEEDINGS

The plaintiff complaining of the defendant for his cause of action alleges:

1.

That on or about the 16th day of November 1912 the plaintiff together with his wife S. L. Morris, who is now deceased, executed and delivered to the defendant J. A. Morris a certain deed of conveyance covering a tract of land containing 75 acres, more or less, lying on Deep Creek in Swain County, and being the home place of the plaintiff and his said wife, which deed was duly recorded in Book 39, page 104 Records of Swain County, to which reference is made for a more full and complete description of said lands.

2.

2.

That the consideration mentioned in said deed was Two Thousand (\$2000.00) Dollars, but the actual consideration of said deed was \$350.00 to be paid at the rate of \$100.00 per annum

All cases and authorities relied upon to cure any defects in this instrument or proceedings thereon or to support any proposition of law must be cited, and short excerpts made therefrom.

evidenced by notes bearing interest at six per cent from date and payable to plaintiff, together with a further consideration that the defendant should care for the said plaintiff and his wife in a humane way during their natural lives and give them a home in said residence situated on the land conveyed.

3.

That immediately upon the execution of said deed the same was delivered to the defendant on defendant's agreement that he should immediately execute and deliver to the plaintiff his notes for \$350.00 payable at the rate of \$100.00 per year six per cent interest from date as the money consideration for said conveyance.

4.

That said defendant after receiving said deed failed, neglected and refused to execute the notes covering the said money consideration above set forth, and still continues to fail, neglect and refuse to execute said notes or pay said consideration to this plaintiff although payment has been often demanded by him.

5.

That a further consideration for the execution of said deed and fully provided therein, was that the said defendant should care for the plaintiff in a humane way during the term of his natural life. That the said defendant, contrary to the terms of said deed and unmindful of his duty as above set forth, has failed, neglected and refused to care for and maintain the plaintiff in a way suitable and fitting to the respective circumstances of the said plaintiff and defendant, and still continues to fail, neglect and refuse to provide a suitable home and maintenance for the plaintiff, although often called upon to do so.

That this plaintiff is advised and believes that owing to the failure and refusal of defendant to pay the money consideration for said deed and his failure and refussl to comply with the terms thereof in regard to maintenance and support of the plaintiff that the said deed is thereby rendered null and void, and that this plaintiff is entitled to have the same cancelled and annulled by a decree of this Court.

7.

That the defendant immediately upon the execution of said deed as above set forth entered into the possession of the property covered thereby and was at the date of the institution of this action and still is in the actual possession and occupancy of said lands, and is lawfully withholding the same from the plaintiff.

WHEREFORE, plaintiff prays that a decree be rendered in this cause declaring the said deed above set forth to be null and void and cancelling the same, and that he be given judgment for the immediate possession of the lands covered thereby, and for such relief as he may be entitled to in the premises and for the cost.

(Signed) Felix E. Alley & S. W. Black
ATTORNEYS FOR PLAINTIFF.

NORTH CAROLINS
SWAIN COUNTY

W. M. Morris, plaintiff in the above entitled action being duly sworn says; that he has heard the foregong complaint read and knows the contents therein, and it is true of his own knowledge, wthexcept those matters and things therein stated upon information and belief, and as to them he believes it to be true.

(Signed) W. L. Morris

" S. B. Smiley
CLERK SUPERIOR COURT

NORTH CAROLINA PARK COMMISSION

ASHEVILLE, N. C.

REPORT ON THE J. A. MORRIS TRACT No. 148 ----89.70 ACRES.

Location: This property is located on Deep Creek about two and one-half miles from its mouth.

Description: This is a farm tract occupied by the owner and consists of valuable creek bottom, and upper fields and woodland.

Improvements: A six room frame house, large frame barn, crib and other out buildings, all in fairly good condition, except that one half of the barn needs a new roof. The house is ceiled, weather boarded and painted. Eleven and one-half acres of bottom land, which is is productive and eight acres of upper fields. The balance is woodland, which has been cut over, extensively.

Valuation:	Six room frame house	\$1250.00
	Barn	800.00
	Crib and out buildings	230.00
	Eleven and one-half acres bottom land	2300.00
	Eight acres of upland \$40.00	320.00
	Seventy acres of woodland	700.00
		<hr/> \$5600.00

An option has been taken on this property for \$5600.00 and the appraisers think that it is its proper value.

Appraisers

APPROVED BY THE EXECUTIVE COMMITTEE

NORTH CAROLINA PARK COMMISSION

Purchased 1/16/29,