

1981

Margaret Dooly Olwell, Jane Dooly Gile, Walker Bank and Trust Company, and William H. Olwell, Trustees of a Testamentary Trust Created For and On Behalf of Bonnie Jane Gile, Eleanor Margaret Olwell, and Carol Jane Olwell, (or Their Heirs as Therein Respectively Named and as Their Interests Appear), Continental Bank and Trust Company, Trustee of A Testa-Mentary Trust Under The Will of John H. Dooly (or Heir or Heirs As Therein Named and As Their Interests Appear), and The Ruth Eleanor Bamberger and Ernest John Bamberger Memorial Foundation, a Charitable Corporation v. Thomas C. Clark, Luther I. Clark, E.

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M. Clark, W. T. Gunter, Administrator, or John Doe,  
Successor Administrator or Representative of the  
Estate of Russell G. Schulder, Deceased, and Maude  
L. Schulder, Ann Schulder, Russell Graydon  
Schulder, His Heirs, and All Other Persons Known  
or Unknown Claiming An Interest In The Property,  
The Subject of This Action : Appellant's Brief

Utah Supreme Court

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Cliford W. Ashton; Attorney for Plaintiff-Respondent  
James A. Murphy and Tel Charlier; Attorneys for Defendant-Appellant

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~~Original~~

IN THE SUPREME COURT  
OF THE STATE OF UTAH

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MARGARET DOOLY OLWELL, JANE )  
DOOLY GILE, WALKER BANK AND )  
TRUST COMPANY, AND WILLIAM )  
H. OLWELL, TRUSTEES OF A )  
TESTAMENTARY TRUST CREATED )  
FOR AND ON BEHALF OF BONNIE )  
JANE GILE, ELEANOR MARGARET )  
OLWELL, AND CAROL JANE OLWELL, )  
(OR THEIR HEIRS AS THEREIN )  
RESPECTIVELY NAMED AND AS )  
THEIR INTERESTS APPEAR), )  
CONTINENTAL BANK AND TRUST )  
COMPANY, TRUSTEE OF A TESTA- )  
MENTARY TRUST UNDER THE WILL )  
OF JOHN H. DOOLY (OR HEIR OR )  
HEIRS AS THEREIN NAMED AND )  
AS THEIR INTERESTS APPEAR), )  
AND THE RUTH ELEANOR BAMBERGER )  
AND ERNEST JOHN BAMBERGER )  
MEMORIAL FOUNDATION, A CHARI- )  
TABLE CORPORATION, )

CASE NO.  
17595

Plaintiffs and Respondents, )

vs. )

THOMAS C. CLARK, LUTHER I. )  
CLARK, E. M. CLARK, W. T. )  
GUNTER, ADMINISTRATOR, OR JOHN )  
DOE, SUCCESSOR ADMINISTRATOR )  
OR REPRESENTATIVE OF THE )  
ESTATE OF RUSSELL G. SCHULDER, )  
DECEASED, AND MAUDE L. )  
SCHULDER, ANN SCHULDER, RUSSELL )  
GRAYDON SCHULDER, HIS HEIRS, )  
AND ALL OTHER PERSONS KNOWN OR )  
UNKNOWN CLAIMING AN INTEREST )  
IN THE PROPERTY, THE SUBJECT )  
OF THIS ACTION, )

Defendants and Appellants )

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FILED

MAY 14 1981

IN THE SUPREME COURT  
OF THE STATE OF UTAH

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TRUST COMPANY, AND WILLIAM )  
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Defendants and Appellants )

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APPELLANT'S BRIEF

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Appeal from the Judgment of the Third  
District Court for Summit County  
Honorable David W. Dee, Judge

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TABLE OF CONTENTS

	Page
STATEMENT OF FACTS.....	4
ARGUMENT.....	9

POINT I

THE SUMMARY JUDGMENT WAS ERRONEOUSLY GRANTED BY THE COURT BELOW SINCE THE PLEADINGS OF SCHULDER RAISED GENUINE ISSUES OF FACT AND MATERIAL TO THIS CASE NOT ADDRESSED BY BAMBERGERS' PROOF IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT.

POINT II

THE FACTS AS PROFERRED BY BAMBERGER DO NOT ESTABLISH THAT THEY ARE ENTITLED TO QUIET TITLE TO THE CLAIMS AS AGAINST THEIR CO-TENANT SCHULDER; CONTRARIWISE, SUCH FACTS DEMONSTRATE THAT AS A MATTER OF LAW THE BAMBERGER INTEREST IN THE CLAIMS SHOULD BE LIMITED TO THEIR FIVE-SIXTH (5/6) INTEREST AND THE SCHULDERS HAVE AN UNDIVIDED ONE-SIXTH INTEREST IN THE CLAIMS.

CONCLUSION.....	17
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#### AUTHORITIES CITED

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Bozievich v. Slechta, 109, Ut. 373, 166 P2d 239  
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78-12-12 Utah Code Annotated 1953, as amended  
78-12-5 Utah Code Annotated 1953, as amended  
78-12-7 Utah Code Annotated 1953, as amended  
Rule 56, Utah Rules of Civil Procedure

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ORDER OF THE COURT, SUCCESSOR )  
ADMINISTRATOR OR REPRESENTA- )  
TIVE OF THE ESTATE OF RUSSELL )  
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MAUDE L. SCHULDER, ANN )  
SCHULDER, RUSSELL GRAYDON )  
SCHULDER, HIS HEIRS, AND ALL )  
OTHER PERSONS KNOWN OR UN- )  
KNOWN CLAIMING AN INTEREST IN )  
THE PROPERTY, THE SUBJECT OF )  
THIS ACTION, )

Defendants and Appellants )



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APPELLANTS' BRIEF

---

STATEMENT OF THE KIND OF CASE

This is an action to quiet title to real property by the Plaintiff against the Defendants, Maude L. Schulder, Ann Schulder, Russell Graydon Schulder individually and as the substitute administrator of the Estate of Russell G. Schulder, Deceased.

DISPOSITION IN LOWER COURT

The lower court granted Summary Judgment in favor of the Plaintiff quieting title to the subject real property and against the Defendants.

RELIEF SOUGHT ON APPEAL

Defendants seek reversal of the judgment of the trial court, and judgment in their favor as a matter of law; or that failing, for a trial by the court below.

STATEMENT OF FACTS

This action was commenced in January, 1980 to quiet title to portions of patented mining claims known as the "April, April Fraction, and Virginia" Claims (hereinafter the "Claims"), located in Summit County, Utah. For the sake of clarity the Plaintiffs - Respondents will be referred to as "Bamberger" and the Defendants - Appellants will be referred to as "Schulder"

The patent for the Claims was issued to Thomas A., E. M. and Luther Clark without any words indicating a joint tenancy (R-45). In 1911, the Clarks conveyed for a consideration of \$350.00 an undivided one-third (1/3) interest in the Claims to Earnest (Ernest) Bamberger and Russell G. Schulder similarly without any words indicating a joint tenancy (Exhibit 5). Bamberger, among other things, had extensive mining interests and Schulder was a lawyer (R-46).

The Clarks were active in the Park City area from about the first of the century until 1911 when the Bamberger-Schulder conveyance was executed and recorded. The abstract (Exhibit 8) contains no entry after 1911 showing their residence in Park City or elsewhere (R-46, Exhibit 8, abstract).

The only address of any of the Defendants that appears in the abstract or the office of the Summit County Treasurer since at least the year 1938 was that shown on the tax notices which was Ernest Bamberger's office address at 163 South Main Street in Salt Lake City, Utah. Bamberger (and his successors) have paid taxes on the Claims at least since 1938 and there is no record of any other person paying taxes levied against the Claims (R-46).

Schulder died on the year 1926 and the Claims were not included in the Inventory of his estate (R-98). Bamberger died in 1958, and included in the Inventory of his estate and Decree of Distribution was an undivided one-sixth (1/6) interest in the Claims (R-17). The interest of Bamberger in the Claims devolved through a series of probate proceedings to the present Plaintiffs, and the interest of Bamberger in the Claims through

the last conveyance in 1977 was consistently expressed as "an undivided 1/6 interest" (Exhibit 8, abstract - pp 201, 197, 184, and 46). Only one entry in the abstract is inconsistent with this representation of Bamberger's ownership interest in the Claims, that being a Trustees' Deed dated July 25, 1962, whereby the Trustees under the Will of Eleanor F. Bamberger conveyed and undivided interest in "All" of the Claims to Jane Dooly Gile (Exhibit 8, p 50). Both prior and subsequent distributions and conveyances from the same Trustees based on title derived from Ernest Bamberger asserted only an ownership of a one-sixth (1/6) interest in the Claims (Exhibit 8, pp 46, 184, 197 and 201).

The Claims are located in Park City in an area near substantial property development (R-110, aerial photo), and are basically hilly terrain covered with scrub-oak (R-49). There are no structures placed upon nor have the Claims been fenced by Bamberger or his successors. Hikers have been permitted permissive access to the Claims over the years and there is some indication of workings incident to mining (R. 49).

The action to quiet title that is the subject of this appeal was commenced in January 1980 (R-1). Partial summary judgment quieting title to an undivided five-sixths (5/6) interest in the Claims was entered by the Court below on April 21, 1980 (R-64). On June 26, 1980, Schulder filed a responsive pleading generally denying the allegations in the Bamberger Complaint and affirmatively alleging that the possession by Bamberger, if any, was not open or notorious, that any such possession was with the consent of Schulder and that the payment of property taxes levied

against the Claims was done voluntarily by the Bambergers (R-72,73).

As supportive evidence for Bamberger's Motion For Summary Judgment and Judgment on the Pleadings, Bamberger submitted the deposition of E. LaMar Osika taken on April 3, 1980 (Exhibit 2). Mr. Osika was the Secretary-Treasurer of United Park City Mines since 1958 and was affiliated with its predecessor company since 1936, which company owned contiguous interests to the Claims and acquired certain interests from the Bambergers (Exhibit 2, p.1). Mr. Osika described the property as having some "scrub-oak and some maple, sage brush and it wasn't used very much" (Exhibit 2, p.3). Further, in response to the question as to whether or not Bamberger or anyone else had any workings on the property, Mr. Osika testified:

"No I haven't noticed any particular workings on the property through the years, there may have been some in the very early days and of course marks of them might be obliterated, but I have not seen any of those." (Exhibit 2, pp 3,4).

Mr. Osika testified that he was aware that the Bamberger people lay claim to the property over a period of time (Exhibit 2, p.4). Mr. Osika testified that there were no structures on the Claims and that hikers occasionally used the property (Exhibit 2, p.5). There is no fencing on the Claims, no cattle or sheep grazing on the Claims (Exhibit 2, p.6). Mr. Osika testified in response to the question as to "whether or not there was any mining activity up there way back in the history that you know of?" Mr. Osika responded,

"No, not in that area . . . ." (Exhibit 2, p7).

Further, the deposition of Donald J. Dixon was taken on April 3, 1980. He stated he is and was employed by Bamberger Investment and Exploration Company as Accountant and Controller since May, 1957 (Exhibit 4, p.1). Mr. Dixon testified that no person had come forward and expressed any interest in the Claims or offered to reimburse Mr. Bamberger for taxes paid in relation to the Claims (Exhibit 4, p.1). Mr. Dixon further testified that he handled payment of taxes from 1953 onward on the Claims and that all of the taxes were paid by the Bamberger interests from at least that date forward (Exhibit 4, P.2).

Based on the tax notices (Exhibit 7) commencing in at least the year 1938, the taxes on the Claims were assessed one-third (1/3) to the Bamberger-Schulder interests and two-thirds (2/3) to the Clark interests. In 1938 the Claims had an assessed valuation in the amount of \$219.00, and the total tax levied on the Claims in 1938 was in the sum of \$10.22. In the year 1942 apparently the Summit County Assessor provided separate assessments for the Claims with one-third (1/3) being assessed to Bamberger-Schulder interests, and two-thirds (2/3) to the Clark interests with the same total assessment of \$219.00 (the assessed valuation of the Clark interest being \$146.00). According to a search of the records made by Security Title Company in January, 1980 the taxes on the Bamberger-Schulder one-third (1/3) were paid through the year 1978, and as to the Clark two-thirds (2/3), the taxes were paid through the year 1973 (Exhibit 9). However, the taxes levied on the Claims were not paid on such interests

for the years 1974, 1975, 1976 and 1977. The property was redeemed by payment of delinquent taxes on May 24, 1978 by one of the Plaintiffs, Mr. William H. Olwell (Exhibit 7). In 1978, the assessed valuation of the Claims remained \$219.00, and the taxes for the year 1978 were in the sum of \$14.02 for the Clark interest (2/3) and, one would presume that on the Bamberger-Schulder interest in the Claims taxes levied would be in the amount of \$7.01.

On October 21, 1980 Bamberger filed a pleading with the Court below entitled "Motion For Summary Judgment and On The Pleadings" (R-147), whereby Plaintiff sought Summary Judgment under Rule 56, URCP. Schulder filed a Memorandum in support of his position. The Court below entered its Findings of Fact and Conclusions of Law and Decree on February 9, 1981 quieting title in Bamberger insofar as the one-sixth Schulder interest is concerned.

#### ARGUMENT

##### POINT I

THE SUMMARY JUDGMENT WAS ERRONEOUSLY GRANTED BY THE COURT BELOW SINCE THE PLEADINGS OF SCHULDER RAISED GENUINE ISSUES OF FACT AND MATERIAL TO THIS CASE NOT ADDRESSED BY BAMBERGERS' PROOF IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT.

In the Answer filed by Schulder, together with the Memorandum filed by Schulder in support of his Motion To Dismiss the Complaint of Plaintiff, these specific issues were raised which give rise to material questions of fact which should be the subject of trial in this cause, as follows:

1. Whether or not the property was in the possession of Bamberger for the requisite statutory period of seven (7) years prior to commencement of this action?

2. Whether or not Bamberger paid the real property taxes as a volunteer in order to preserve and protect the interest of the co-tenant Schulder?

3. Whether or not during the period of seven years Bamberger continuously paid all taxes which have been levied and assessed against the Claims in accordance with law? (Section 78-12-12, Utah Code Annotated, 1953, as amended.)

The documentation in the file before this Court based on the deposition of Donald J. Dixon (Exhibit P-4), accountant for Bamberger, states that Mr. Bamberger was paying all of the taxes on the property at least since the year 1953, but nowhere in Mr. Dixon's deposition does he state that Mr. Bamberger claimed ownership of the entire interest in these properties. Further, in the deposition of Mr. E. LaMar Osika, Secretary-Treasurer of the United Park City Mines Company or its predecessor since the year 1936 Mr. Osika testified as follows.

Q. "Have you had occasion to notice whether or not the Bambergers or anyone else have any workings on the property?"

A. "No, I haven't noticed any particular working on the property through the years. There may have been some in the very early days and of course marks of them might be obliterated, but I have not seen any of those." (Exhibit 2, p.3)

Q. "Do you know that these Bamberger people, Ernest particularly, laid claim to these properties over that period of time?"

A. "Yes, we were very aware of that, yes."  
(Exhibit 2, pp 3 and 4).

Q. "Are there any buildings on either your property or ours?"

A. "Not that I know of in those particular locations. I don't believe there are."

Q. "What activity has been on any of those claims up there in the past years?"

A. "Well, in some there have been, at times people have built homes in the area rather than locate exactly on those things or not, as I mentioned it was part of the urban sprawl in the very early days and some of those homes are still being lived in and the homes themselves, title has been conveyed from party to party but not ground, but they didn't own any ground (Exhibit 2, p.5).

Q. "Is there any fencing on that?"

A. "No, no fencing on those claims."

Q. "Has there been any cattle or sheep grazing that you have noticed on the yellow area that is marked?"

A. "No, I have never seen sheep or cattle grazing on there."

Q. "In other words, it's pretty much the same as was fifty or sixty years ago."

A. "I think so, I think it would be, yes."  
(Exhibit 2, p.6).

Finally, in the course of the proceedings it was stipulated between counsel (without prejudice) that all taxes levied against the Claims had been paid by Bamberger (R-151); however, clearly in the Exhibits offered by the Plaintiff, with particular reference here to Exhibits 7 and 9, all taxes levied against the Claims were not paid during the years 1974 through 1977, inclusive, the same having been redeemed by Bamberger in May, 1978.



Finally, the Pleadings, Affidavits and documents filed with the Court by Bamberger indicate that as late as October, 1977 the successors of interest to Ernest Bamberger in the Claims restricted the Bamberger interest in the Claims to an undivided one-sixth (1/6) interest (Exhibit 8, abstract, p. 201).

It is the burden of the party moving for Summary Judgment to show that he is entitled to Judgment under established principles and, if he does not discharge that burden, then he is not entitled to the Judgment even though no opposing affidavits are proffered in opposition to such motion under Rule 56(e) URCP. No defense to an insufficient showing is required (See Moore's Federal Practice, Volume 6, p. 56-1344). Further, in commenting upon the Amendment to Rule 56(e) in the Federal Rules in 1963 (which similiar amendment was adopted in the Utah Rules of Civil Procedure in 1965), the Advisory Committee to the Federal Rules of Civil Procedure commented,

"... nor is the amendment designed to affect the ordinary standards applicable to the Summary Judgment Motion. . . . Where the evidentiary matter in support of the motion does not establish the absence of a genuine issue, summary judgment must be denied even if no opposing evidentiary matter is presented . . ." (6 Moore's Federal Practice p. 56-1337).

Our Supreme Court in the case of Judkins -v- Toone, 27 Ut. 2d 17, 492 P2d 980, 983 (1972) quoted with favor from the case of Frederick May and Company -v- Dunn, 68 P2d 266, stating

"To sustain a Summary Judgment the pleadings, evidence, admissions . . . must show that there is no genuine issue of material fact, and that the winner is entitled to a judgment as a matter of law. Such showing must preclude, as a matter of law, all reasonable possibility that the loser could win if given a trial."

## POINT II

THE FACTS AS PROFFERED BY BAMBERGER DO NOT ESTABLISH THAT THEY ARE ENTITLED TO QUIET TITLE TO THE CLAIMS AS AGAINST THEIR CO-TENANT SCHULDER, CONTRARIWISE, SUCH FACTS DEMONSTRATE THAT AS A MATTER OF LAW THE BAMBERGER INTEREST IN THE CLAIMS SHOULD BE LIMITED TO THEIR FIVE-SIXTH (5/6) INTEREST AND THE SCHULDERS HAVE AN UNDIVIDED ONE-SIXTH (1/6) INTEREST IN THE CLAIMS.

The original patent for the Claims issued on July 12, 1909 to Thomas A., E. M. and Luther I. Clark was issued without any words indicating joint tenancy (Exhibit 6) and, therefore, under the then prevailing statute, (Section 1973, Comp. L. Utah (1907) presently codified in Section 57-1-5, Utah Code Annotated 1953, as amended) the grantees were tenants in common. The conveyance of the undivided one-third (1/3) interest to Bamberger and Schulder (Exhibit P-5) there was similarly created a tenancy in common among the Clarks, Bamberger and Schulder, with the Bamberger and Schulder interest in the Claims being one-sixth (1/6) to Bamberger and one-sixth (1/6) to Schulder.

The record before the Court amply demonstrates that Bamberger has over the years evidenced an interest in and to the Claims, and have paid certain of the taxes levied and assessed against the Claims. However, order to maintain an action to quiet title, it is provided in Section 78-12-5 Utah Code Annotated 1953, as amended:

"Seizure or possession within seven years necessary. No action for the recovery of real property or for the possession thereof shall be maintained unless it appears that the Plaintiff, his ancestor,

grantor or predecessor was seized or possessed of the property in question within seven years before the commencement of the action."

The possession must be continuous, open, hostile and adverse for the period of seven years before the commencement of the action. See Bozievich -v- Slechta, 109 Ut. 373, 166 P2d 239 (1946). Further, it is provided in Section 78-12-7, Utah Code Annotated, 1953, as amended,

"... the occupation of the property by any other person shall be deemed to have been under and in subordination to legal title, unless it appears that the property has been held and possessed adversely to such legal title for seven years before the commencement of the action." (emphasize ours)

In the instant case, even though Bamberger has asserted an ownership interest to the Claims over an extended period of time, and paid taxes over a substantial period of time, it is eminently clear from the evidence submitted to the trial court that at least since the year 1936 no structures have been placed upon the Claims, nor thay they been fenced; no use was made of the Claims as mining property; no farming or grazing activities were conducted on the property, it was merely raw land covered with scrub-oak, some maple and sagebrush (Deposition of E. LaMar Osika, Exhibit 2) Further, the Bamberger interests, at least since the year 1953, have paid taxes levied upon the property (Exhibit 4, Deposition of Mr. Donald J. Dixon). However, based on the records of the Summit County Assessor as searched by Security Title Company in January, 1980 (Exhibit 9), taxes were not paid on the undivided two-thirds (2/3) of the property during the years 1974, 1975, 1976 and 1977, and redemption was made by Mr. William H. Orwell, one of the Plaintiffs herein, in May, 1978

(Exhibit 7).

Section 78-12-12, Utah Code Annotated 1953, as amended, provides,

"Possession must be continuous and taxes paid - In no case shall adverse possession be considered established under the provisions of any section of this code, unless it shall be shown that the land has been occupied and claimed for the period of seven years continuously, and that the party, his predecessors and grantors have paid all taxes which have been levied and assessed upon such land according to law."

The statutory requirement for seven years adverse possession has not been met by Bamberger by virtue of the non-payment of the aforementioned taxes levied against the Claims.

Finally, the question is presented of whether or not the co-tenant Schulder can be deprived of his interest in the property because of his perhaps lack of diligence in asserting any claim of ownership interest in the Claims. Consistently, Ernest Bamberger and his successors in interest represented through and including as late as October, 1977 that the interest of Bamberger in the Claims was an undivided one-sixth (1/6) interest (Exhibit 8, abstract p. 200) Such evidence of his interest would be consistent that he was paying the taxes in favor of the estate and interest of the Schulders in the property of an equal undivided one-sixth (1/6). With reference to the amount of the taxes, at least from the documentation as contained in Exhibit 7, tax notices, shows that the amounts ranged from \$10.00 a year in 1938 to approximately \$20.00 in 1978. All of the tax notices were mailed to the Bamberger offices (R-46) and significantly no statement is made by any person within the record that demand was ever made for payment of any proportionate share of taxes upon

either Schulder or his successors in interest.

When a co-tenant seeks to claim ownership of property, his claim must be brought home to the other co-tenant in some clear and unequivocal manner and what he does for the benefit of the property, including payment of taxes is deemed to be for the benefit of the co-tenant. He must indicate that he is claiming the property adversely to his co-tenant. See Beckstrom -v- Beckstrom, \_\_\_ Ut. \_\_\_ 2d, 578 P2d 520 (1978).

In relation to the effect of payment of taxes levied against the jointly owned property, our Court in Sperry -v- Tolley, 114 Ut. 303, 199 P2d 542 (1948), quoted with favor from Black on Tax Titles, p. 349, as follows:

"... Where land is owned by joint tenants, coparceners, or tenants in common and taxes are assessed upon it as a whole and it is sold for non-payment of the same, neither of the cotenants can purchase title at the sale which shall operate to dissolve the relationship. His payment is regarded as simply discharging the assessment, and it will inure to the benefit of all. He acquires no other or greater interest than he held before, except that he has a claim upon the others for reimbursement according to their respective shares ..."

Schulder is more than willing to pay his proportionate one-sixth (1/6) of the taxes paid by the Bambergers over the years.

An adverse claimant has the burden of pleading and proving full compliance with the statute, including payment of all taxes lawfully assessed. See Home Owners' Loan Corp. -v- Dudley, 105 Ut. 208, 141 P2d 160 (1943), and the fact that certain tenants in common have been in exclusive possession of common property for more than seven years is not sufficient to show that their position has been adverse to the other co-tenants since the co-

CERTIFICATE OF SERVICE

This is to certify that on this 14th day of May, 1981, I personally served (or delivered) two copies of the foregoing Brief of Defendants and Appellants in the matter of Margaret Dooly Olwell, et al, Plaintiffs and Respondents, -v- Thomas C. Clark, et al, Defendants and Appellants, Case No. 17595, to Mr. Clifford W. Ashton, Attorney for Plaintiffs and Respondents at 50 South Main Street, Salt Lake City, Utah 84101.



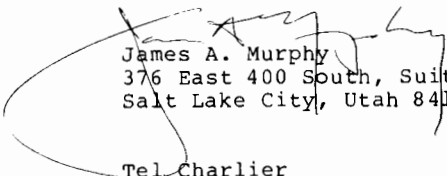
JAMES A. MURPHY

tenant is entitled to possession of the entire property as long as he does not exclude his co-tenants or otherwise clearly act adversely to their rights. To acquire title by adverse possession a co-tenant must in some way indicate to his co-tenants that he is claiming the property adversely to them. See Sperry -v- Tolley, 114 Ut. 203, 199 P2d 542 (1948).

#### CONCLUSION

Clearly under the facts of this case, it must be concluded that first, issues of fact have been raised material to this cause within record as it presently stands and second, that it is a matter of law Bamberger is not entitled to quiet title to this property as against the Schulder interests and that Schulder is and remains the owner of an undivided one-sixth (1/6) interest in the Claims.

Respectfully submitted,



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