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IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs June 2, 2026

DEVELOPED BY DESIGN, LLC v. JAMES M. TRAVIS ET AL.

Appeal from the Chancery Court for Rhea County
No. 23-CV-11670 Melissa T. Willis, Chancellor

No. E2025-01761-COA-R3-CV

This is an action involving a dispute over ownership of a tract of unimproved real property. The plaintiff company had purchased a tract of land for development, but when the company commenced work on the tract, the adjacent landowners complained that the company had encroached on the landowners' real property. The company filed suit against the landowners, alleging that the company's understanding of the boundary line location was consistent with a recorded survey from 1967 and that the deeds to both parties' properties referenced the same survey. In their answer, the defendant landowners claimed that they owned the disputed property through the doctrine of adverse possession. Following a hearing, the trial court determined that the landowners had failed to establish the elements necessary for a claim of adverse possession. Discerning no reversible error, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed; Case Remanded

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., C.J., and STEVEN W. MARONEY, J., joined.

John Michael Deakins and Joshua E. Hixson, Dayton, Tennessee, for the appellants, James M. Travis and Mary E. Travis.

M. Keith Davis, Dunlap, Tennessee, for the appellee, Developed by Design, LLC.

OPINION

I. Factual and Procedural Background

This appeal arises from a complaint filed on June 14, 2023, in the Rhea County Chancery Court ("trial court") by the plaintiff company, Developed by Design, LLC ("the Company"), requesting establishment of a real property boundary line and issuance of a permanent injunction against the defendants, James M. Travis and Mary E. Travis. In the complaint, the Company alleged that it had purchased "approximately 43.39 acres of real estate" located in Rhea County ("the Company Tract") on August 6, 2021, and that this unimproved land was situated adjacent to a tract of real estate owned by the Travises. The Travises had raised a dispute with the Company regarding the location of the boundary line between their land and the Company Tract following a disagreement between Mr. Travis and Company member Caleb Yawn in 2021. The Company further claimed that the Company Tract had been surveyed by Jack B. Kimsey in 1966 and that this survey comported with the Company's understanding of where the boundary line lay. A copy of the Jack B. Kimsey survey ("the Kimsey Survey") had been recorded on April 6, 1967, in the Rhea County Register of Deeds. The Company averred that each deed conveying the Company Tract since that time had specifically referenced the Kimsey Survey.

The Company claimed that the boundary line between the Company Tract and the Travises' tract had been "clearly marked" but that the Travises had refused to accept the boundary location and had "placed their own boundary line markers in an attempt to relocate the boundary line at issue." The Company further alleged that the Travises had attempted to relocate the boundary line "without the assistance of any licensed surveyor." In addition to the disputed boundary line ("the Disputed Property"), the Company alleged that it possessed rights to "a thirty (30) foot right-of-way across [the Travises' tract]."

The Company sought the following relief: (1) establishment of the boundary line between the tracts so as to remove any cloud of title resulting from the dispute, (2) establishment of the Company's right to the thirty-foot right-of-way that ran across the Travises' tract, (3) a permanent injunction enjoining the Travises from moving the existing boundary markers or placing their own boundary markers along the boundary between the tracts, and (4) a permanent injunction enjoining the Travises from interfering with the Company's use and enjoyment of the thirty-foot right-of-way.

The Travises filed an answer on September 27, 2023, in which they denied that the boundary line marked by the Company's surveyor was the "true and correct boundary line" between the parties' tracts. The Travises further denied the purported location of the Company's claimed right-of-way across their land although they admitted that their property deed did reference an "easement" in favor of the Company Tract. The Travises lodged a counter-complaint against the Company, seeking declaratory judgment respecting the boundary line and "any maintenance responsibilities related to the easement" across the Travises' tract. In their counter-complaint, the Travises claimed ownership of the Disputed Property through the doctrine of adverse possession, stating that they had "adversely possessed" the Disputed Property for a "period of at least twenty (20) years."

In support, the Travises claimed that they had "always maintained the disputed real property to the detriment of [the Company] and their predecessors in title."

The Travises additionally raised one count each of negligence, nuisance, and trespass against the Company and further sought to enjoin the Company from any further excavation or grading on the Company Tract, claiming that such work had caused "substantial damage" to the Travises' land because it had "re-directed the natural flow of water runoff" onto the Travises' property.[1] The Travises filed a separate motion for a temporary restraining order against the Company, seeking to enjoin the Company from "using, accessing, or in any way obstructing or interfering" with the Travises' use of the Disputed Property. The Company filed an answer to the Travises' counter-complaint on November 11, 2023.

Following a lengthy discovery period, the trial court conducted a hearing on September 25, 2025. The court considered proof concerning the location of the mutual boundary line, the Company's rights and responsibilities pertaining to the purported right-of-way across the Travises' land, and the question of whether the Travises had adversely possessed the Disputed Property. The proof presented included, *inter alia*, tax maps depicting the parties' respective properties, certified copies of deeds in each party's chain of title, certified copies of deeds held by certain of the parties' neighbors, and a certified copy of the Kimsey Survey. In addition to reviewing the exhibits, the trial court heard testimony from Anthony Richmond, a licensed surveyor in Tennessee; Caleb Yawn, a member of the Company; Mr. Travis; and the Travises' adult son and daughter, Arty Travis and Olivia Keller. The court found Mr. Richmond, Mr. Yawn, Arty Travis and Ms. Keller to be credible witnesses but noted that counsel for the Company had effectively used depositions "several times" to impeach Mr. Travis during his testimony.

At the conclusion of the hearing, the trial court provided an oral ruling from the bench that it later incorporated into a written order entered on October 20, 2025. The court found that (1) the boundary line presented by the Company was the correct boundary line between the Company Tract and the Travises' land, (2) the Company was entitled to use of the right-of-way across the Travises' land, and (3) the Travises had not met their burden to establish each of the elements for a claim of adverse possession. The Travises timely appealed.

[1] During the September 25, 2025 hearing, the parties agreed that the Travises had waived these additional claims of negligence, nuisance, and trespass against the Company as well as their claim that the Company was not entitled to a right-of-way across the Travises' land. Such waiver notwithstanding, the trial court included an express ruling in its order that the Company was entitled to use the thirty-foot right-of-way across the Travises' land.

II. Issue Presented

The Travises present the following issue for our review, which we have restated slightly:

> Whether the trial court erred by finding that the Travises failed to establish adverse possession of the Disputed Property when the unrebutted evidence demonstrated exclusive, actual, notorious, hostile, and continuous possession for the statutory period.

III. Standard of Review

We review a non-jury case *de novo* upon the record with a presumption of correctness as to the findings of fact unless the preponderance of the evidence is otherwise. *See* Tenn. R. App. P. 13(d); *Bowden v. Ward*, 27 S.W.3d 913, 916 (Tenn. 2000). We review questions of law, including those of statutory construction, *de novo* with no presumption of correctness. *Bowden*, 27 S.W.3d at 916 (citing *Myint v. Allstate Ins. Co.*, 970 S.W.2d 920, 924 (Tenn. 1998)). To the extent that the trial court's determinations rest upon an assessment of the credibility of witnesses, the determinations will not be overturned absent clear and convincing evidence to the contrary. *Wells v. Tenn. Bd. of Regents*, 9 S.W.3d 779, 783 (Tenn. 1999). "Clear and convincing evidence means evidence in which there is no serious or substantial doubt about the correctness of the conclusions drawn from the evidence." *Furlough v. Spherion Atl. Workforce, LLC*, 397 S.W.3d 114, 128 (Tenn. 2013) (quoting *Hodges v. S.C. Toof & Co*., 833 S.W.2d 896, 901 n.3 (Tenn.1992)) (internal quotation marks omitted).

III. Adverse Possession

To establish a claim for adverse possession of land in Tennessee, "the possession must have been exclusive, actual, adverse, continuous, open, and notorious for the requisite period of time." *See Cumulus Broad., Inc. v. Shim*, 226 S.W.3d 366, 377 (Tenn. 2007) (citing *Hightower v. Pendergrass*, 662 S.W.2d 932, 935 n.2 (Tenn. 1983)). "[C]ommon law adverse possession rests upon the proposition 'that where one has remained in uninterrupted and continuous possession of land for 20 years, a grant or deed will be presumed.'" *Cumulus Broad.*, 226 S.W.3d at 376-77 (quoting *Ferguson v. Prince*, 190 S.W. 548, 552 (Tenn. 1916)). As our Supreme Court has explained:

> Adverse possession is, of course, a question of fact. The burden of proof is on the individual claiming ownership by adverse possession and the quality of the evidence must be clear and convincing. The actual owner must either have knowledge of the adverse possession, or the possession must be so open and notorious to imply a presumption of that fact. When an adverse possessor holds the land for a period of twenty years, even absent any

assurance or color of title, the title vests in that possessor.

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Cumulus Broad., 226 S.W.3d at 377 (internal citations omitted).

In the instant case, the trial court found that the Travises had failed to establish adverse possession of the Disputed Property, stating:

> In regards to the [Travises'] counter-claim for adverse possession, the Court finds that the [Travises] did not establish that they met each of the elements required to sustain their claim—i.e. that their possession was a) actual and exclusive; b) open, visible and notorious; c) continuous and peaceable; and d) hostile and adverse. The Court specifically finds that, while Defendant James M. Travis testified that he had mowed the disputed area and planted blueberry bushes in the disputed area, said actions alone do not rise to the level of constituting adverse possession. The court further specifically finds that the [Travises] did not take any steps to keep anyone off the disputed property until the [Company] purchased its property in 2021. The Court also specifically finds that the [Travises] failed to establish that their possession of the disputed property was open and notorious because there was no way for anyone to know that there was any controversy related to the ownership interest as evidenced by the fact that the [Company's] surveyor (Anthony Richmond) testified that when he did his survey in 2022, he did not observe anything that would lead him to make any notations on his survey plat that the area was in dispute.

At the outset, the Travises assert that "the trial court's conclusion that mowing, gardening, and planting blueberry bushes 'do not rise to the level of constituting adverse possession' is a legal conclusion, not a factual finding," and that such conclusion was error. The Travises are correct that this finding is a "legal conclusion" in that the court applied the law to the facts by considering the evidence that Mr. Travis mowed and planted blueberry bushes on the disputed area in light of the Travises' burden to prove the five elements of adverse possession by clear and convincing evidence. *See Cumulus Broad.*, 226 S.W.3d at 377.

However, upon careful review, we determine that the trial court correctly applied the law to the facts in this instance and reached the proper conclusion. The court stated in its oral ruling that in "adverse possession cases" the purported adverse possessor must "prove all five elements [of adverse possession], and the burden is on the party claiming the contested area to produce evidence that they have met all five elements." This was a correct assessment of the requirements for a proponent of adverse possession. *See Cumulus Broad.*, 226 S.W.3d at 377. The trial court then applied these requirements to the evidence presented. This evidence included Mr. Travis's testimony that he had done more than mowing the Disputed Property, such as "weed eating," "clearing" it for "walking tracks,"

and spending "lots of money on gravels and stuff." The trial court acknowledged that Mr. Travis and his family had demonstrated their "ability to enjoy the property" but determined that this activity, in addition to Mr. Travis's mowing of the Disputed Property, did not rise to the level of adverse possession. Additionally, the trial court questioned Mr. Travis's credibility regarding his activity on the Disputed Property and found that counsel for the Company had effectively used Mr. Travis's deposition testimony to impeach him. Thus, we determine the Travises' argument on this point to be unavailing.

The Travises also argue that the trial court erred in its analysis of several of the elements for a claim of adverse possession. We will consider each in turn.

A. Actual Possession

The Travises assert that the trial court applied an incorrect legal standard when it determined that they had not exercised "actual possession" of the Disputed Property sufficient to establish an adverse possession claim. The Travises urge that contrary to the trial court's conclusion, they had demonstrated "far more than mowing" on the Disputed Property. The Travises advance the position that since 1996, when the Travises purchased their property, Mr. Travis had "mowed the entire disputed area, weed-eated it, placed gravel on it, planted and maintained a garden, planted blueberry bushes, held yard sales, scrapped materials, [and] placed chairs and personal property [in the disputed area]." The Travises point to Mr. Travis's testimony during which he stated: "I've been using [the Disputed Property] since I've owned it for whatever I want to do." The Travises contend that their active use of the Disputed Property demonstrated an exercise of dominion over the property "at least as substantial as those recognized in Tennessee case law."

The Travises rely on the facts set forth in *Wilson v. Price*, 195 S.W.3d 661 (Tenn. Ct. App. 2005), as an example of the type of "actual possession" sufficient to establish that element in an adverse possession case. In *Wilson*, this Court determined adverse possession to be established when a neighbor had built a wall, concrete pads, and a garage that encroached on a landowner's property and had left those structures there for nearly two decades after the landowner had requested that they be removed. *See Wilson*, 195 S.W.3d at 664-65. By contrast, here, the Travises did not build any permanent structures on the Disputed Property, and neither the Company nor any previous owner of the Company Tract had ever requested that the Travises discontinue their alleged use of the Disputed Property prior to the encounter between Mr. Travis and Mr. Yawn in 2021.

The Travises posit that "continuous use and maintenance of property, combined with the recognition of the adverse possessor's claim" can establish adverse possession. In support, they cite the Tennessee Supreme Court's decision in *Hightower v. Pendergrass*, 662 S.W.2d 932 (Tenn. 1983). However, not only are the facts in *Hightower* highly distinguishable from those in the instant case, nothing in the record demonstrates that the Company or any previous owner of the Company Tract ever recognized the Travises'

purported claim to the Disputed Property. For the above-stated reasons, we find no error in the trial court's determination that the Travises did not establish, by clear and convincing evidence, "actual possession" of the Disputed Property. *See Cumulus Broad.*, 226 S.W.3d at 377.

B. Open and Notorious[2]

The Travises next contend that the trial court erred when it determined that their possession of the Disputed Property was not "open and notorious." Regarding this element, the trial court found:

> [T]he [Travises] failed to establish that their possession of the disputed property was open and notorious because there was no way for anyone to know that there was any controversy related to the ownership interest as evidenced by the fact that the [Company's] surveyor (Anthony Richmond) testified that when he did his survey in 2022, he did not observe anything that would lead him to make any notations on his survey plat that the area was in dispute.

The Travises argue that the trial court's reasoning "reflects a fundamental misunderstanding of the legal standard for 'open and notorious' possession."

To establish the "open and notorious" element of a claim for adverse possession, the "actual owner must either have knowledge of the adverse possession, or the possession must be so open and notorious to imply a presumption of that fact." *Cumulus Broad*., 226 S.W.3d at 377 (quoting *Kirkman v. Brown*, 27 S.W. 709, 710 (Tenn. 1894)); *see, e.g.*, *Logan v. Estate of Cannon*, 602 S.W.3d 363, 383 (Tenn. Ct. App. 2019) (determining possession of land to be "open and notorious" when the adverse possessor had "exercised a consistent level of control" over the property by "acting as the contact person for permission to access" the property, initiating repairs to fences and gates, and discussing property "with potential buyers."). Thus, the Travises needed to present clear and convincing evidence that either (1) the Company knew that the Travises claimed ownership of the Disputed Property or (2) the Travises' claim was so open and notorious as to imply a presumption that the Company knew of their claim.

Upon careful review, we determine that the Travises have not presented clear and

[2] The Travises include a standard for "open and notorious" from a case that they cite in their brief as "*Walker v. Huff*, 60 S.W.3d 820, 826 (Tenn. Ct. App. 2000)." No such case exists. The volume and page numbers of the citation used by the Travises correspond to a case entitled, "*Simonton v. Huff*," but that case does not discuss the standard for "open and notorious" possession of land. *See generally*, *Simonton v. Huff*, 60 S.W.3d 820 (Tenn. Ct. App. 2000). The Travises may be referring to *Walker v. Huff*, No. E2005-01096-COA-R3-CV, 2006 WL 721308, at *2 (Tenn. Ct. App. Mar. 22, 2006), but that case does not contain the quotation attributed to it in the Travises' brief.

convincing evidence that they openly manifested control over the Disputed Property to the exclusion of others. Nothing in the record indicates that either the Company or any other person or entity considered the Travises to be exercising control of the Disputed Property. Mr. Richmond testified at trial that the Company employed his services to survey the Company Tract for the purpose of dividing the land into "three tracts to sell." According to Mr. Richmond, he did not become aware of any disagreement regarding the disputed boundary line during his initial survey. Mr. Richmond stated that he only later inspected and marked the boundary line between the Company Tract and the Travises' land after Mr. Yawn requested that he do so because Mr. Travis had complained that the Company was "clearing out on him or getting onto his property."

Mr. Travis testified that the first "confrontation" between himself and Mr. Yawn regarding the Disputed Property occurred in 2021. Mr. Travis explained that he spoke with Mr. Yawn after Mr. Travis "came home and there was blue ribbons all down the back of our house and down toward the creek." Significantly, Mr. Travis did not testify to any confrontation or conflict regarding the boundary line prior to 2021. Moreover, Mr. Travis did not present clear and convincing evidence that the Travises had placed any open and notorious claim to the boundary line that would give notice to another that Disputed Property belonged to the Travises. Instead, Mr. Travis testified that to his knowledge no one had ever trespassed on the Disputed Property and that prior to the conflict with the Company in 2021, the Travises had never told anybody to "get off" the Disputed Property or taken any steps to keep anyone off the property.

Ms. Keller, the Travises' daughter, testified that there had never been a fence or "no trespassing" sign on the Disputed Property and that to her knowledge, there had been nothing to keep renters off the Disputed Property during the time that the Company Tract was occupied by renters between 2017 and 2021. Ms. Keller admitted that there was "nothing that, if someone were to come to [the Disputed Property] that would notify them, hey this is James and Mary Travis's property[.]"

Mr. Yawn presented unrebutted testimony that after the Company purchased the Company Tract in 2019, he observed a "garden" near the boundary between the Company Tract and the Travises' land but that the garden was located on the Travises' side of the surveyed boundary line. Mr. Yawn stated that to his knowledge, the Travises did not begin "mowing" the Disputed Property until 2021 after he and Mr. Travis had experienced their first "confrontation" concerning the boundary line. Mr. Yawn testified that following the Company's encounter with Mr. Travis about the boundary line in 2021, items began appearing in the Disputed Property area such as "a car door, chain link fence, a kitchen sink, a bicycle," and "some old pipe." It was undisputed during the litigation that Mr. Travis had placed the aforementioned items in the Disputed Property area in 2021. Mr. Yawn stated that the Company did not formally notify Mr. Travis that it contested his use or possession of the Disputed Property until September 2021 after Mr. Travis placed a "car part" on the Disputed Property.

In their appellate brief, the Travises argue that the trial court's reliance on Mr. Richmond's testimony—in which he stated that he did not see any evidence of a land dispute when he conducted his survey in 2022—was misplaced. They contend that a surveyor conducting a boundary survey is "looking for metes and bounds descriptions, monuments, and deed references, not for evidence of adverse possession disputes." However, Mr. Richmond's testimony directly contradicts this assertion. Mr. Richmond responded in the affirmative when asked whether it was his practice to note indications of adverse possession claims on his survey plats during physical inspections of property. He continued that he would note the presence of items such as "buildings, fences, gardens," "no trespassing signs," and "surveying flags that don't correspond" to the survey company's own surveying flags. Mr. Richmond stated that he had observed a "garden area" during his survey of the Disputed Property but had found nothing that would lead him to believe there was "an issue with the boundary line." Notably, even the placement of the car door, chain link fence, kitchen sink, bicycle, and other items by Mr. Travis in the disputed area did not alert Mr. Richmond to any boundary dispute when he conducted his survey in 2022. The trial court found Mr. Richmond's testimony to be credible.

Mr. Travis testified repeatedly that he had planted blueberry bushes on the Disputed Property and that these bushes proved his rightful ownership of the Disputed Property. In support, Mr. Travis provided a photograph depicting the Company surveyor line going "right through" his blueberry bushes. However, when asked whether he had placed any "mark of ownership" on the blueberry bushes, Mr. Travis responded only that there were "milk jugs hanging there with water" with Mr. Travis's name on them and that the Company "should have been able to tell what was mine." Despite this assertion, neither Mr. Yawn nor Mr. Richmond noted any blueberry bush or other items on the Disputed Property that gave them reason to believe that the Travises claimed ownership of the Disputed Property. The trial court additionally questioned Mr. Travis's credibility concerning his activity on the Disputed Property. For the above-stated reasons, we determine that the trial court properly found that the Travises did not provide clear and convincing evidence that their use of the Disputed Property was "open and notorious."

C. Exclusive Possession

The Travises also contend that the trial court "imposed requirements not found in Tennessee adverse possession law" when it "faulted" them for "not taking any steps to keep anyone off the [Disputed Property]" until the Company purchased the Company Tract in 2021. The Travises argue that an adverse possessor is not required to "erect fences, post no-trespassing signs, or take affirmative steps to exclude others from the property." The Travises continue that the "evidence was unrebutted that no one other than [the Travises] used or maintained the disputed area." We find these arguments respecting the "exclusive possession" element to be unpersuasive.

For over a century, a person in Tennessee seeking to prove adverse possession has been required to demonstrate possession that is exclusive of "all hostile claims." *See Star Enter. v. Warner*, No. 01-A-01-9502-CH00036, 1995 WL 381652, at *2 (Tenn. Ct. App. June 28, 1995) (citing *Sequatchie Valley Coal & Iron Co. v. Coppinger*, 95 Tenn. 526, 32 S.W.465 (1895)). As this Court has more recently explained:

> "Hostility" exists, in the legal sense, when one "holds the possession as his, against the claims of any other." *Hightower v. Pendergrass*, 662 S.W.2d 932, 937 (Tenn. 1983). Moreover, the hostile possession must be open such that it provides notice to the world that the adverse possessor claims ownership of that property. *Cooke v. Smith*, 721 S.W.2d 251, 254 (Tenn. Ct. App. 1986).

Logan, 602 S.W.3d at 386.

Thus, it was not sufficient for the Travises to demonstrate that they alone had possessed the Disputed Property without interference from the Company or others for the proscribed period. Rather, they were required to demonstrate that they had possessed the property in a manner "hostile"—that is, "against the claims of any other,"—such that their possession provided notice to the world of their claimed ownership. *See id.* The record does not contain evidence of any competing claims to the Disputed Property prior to 2021, and testimony revealed that the Company and its representatives were not aware of the Travises' claim to the Disputed Property until after the confrontation between Mr. Travis and Mr. Yawn in 2021. Hence, the trial court did not err in determining that the Travises had failed to establish that their possession of the property was exclusive.

IV. Conclusion

For the foregoing reasons, we affirm the trial court's judgment in all respects. This case is remanded to the trial court for execution of the judgment and collection of costs below. Costs on appeal are assessed to the appellants, James M. Travis and Mary E. Travis.

s/Thomas R. Frierson, II

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THOMAS R. FRIERSON, II, JUDGE