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2008

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Recommended Citation

Tackach, James and Emilie Benoit. 2008. "August Wilson's The Piano Lesson and the Limits of Law." *Law, Culture and the Humanities* 4 (2)

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August Wilson's *The Piano Lesson* and the Limits of Law

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Abstract:

August Wilson's *The Piano Lesson* features a debate between an African American brother and sister over the ownership of a richly symbolic piano, a family heirloom that represents the Charles family's slave heritage and its endurance through Reconstruction. Ownership questions like the one presented in *The Piano Lesson* can usually be resolved in the courts, but Wilson's play suggests that the law might be unable to resolve property disputes so problematically entangled with the legacy of slavery. Wilson offers, instead, a non-legal resolution to the piano debate presented in his play.

August Wilson's *The Piano Lesson* and the Limits of Law

I. Introduction

At the heart of *The Piano Lesson*, August Wilson's 1990 Pulitzer Prize-winning play, is a debate between an African-American brother and sister over the rightful ownership of a piece of property. The piano sitting in Berniece's home in Pittsburgh in 1936 has been held by the Charles family, or by the white Sutter family, who once owned the Charleses, since 1856, when Robert Sutter, a Mississippi plantation owner, traded two Charles family slaves, Mama Berniece and her nine-year-old son Walter, for the piano as an anniversary present for his wife Ophelia. Soon, however, Ophelia missed the two departed slaves and felt guilty about their sale, perhaps because the transaction broke up a functioning slave family. To assuage Ophelia's guilt, a remaining Sutter slave, Papa Boy Willie, Mama Berniece's husband and a skilled wood sculptor, carved the images of his wife and his son into the frame of the piano. Papa Boy Willie continued to carve into the piano important events from his family's history—his marriage, his mother's funeral, the birth of his son, the sale of his wife and son. The piano stayed in possession of the Sutter family after emancipation; but on July 4, 1911, Boy Charles, the grandson of the wood carver and Berniece's father, stole the piano from the Sutters. When Robert Sutter's son discovered the theft, he killed Boy Charles by setting fire to a yellow train boxcar in which Boy Charles was hiding. Berniece took the piano with her when she migrated north from Mississippi in 1933. A widow, Berniece lives in Pittsburgh with her daughter Maretha and her Uncle Doaker.

The debate between Berniece and her older brother Boy Willie is over the sale of the piano. Boy Willie and his friend Lymon have traveled to Pittsburgh from Mississippi with a

truckload of watermelons. Boy Willie, who claims half ownership of the piano, intends to sell the watermelons, convince his sister to sell the piano, combine the newly acquired cash with his savings, and buy the piece of Sutter property on which Boy Willie and Berniece's ancestors worked as slaves and sharecroppers. Berniece wants to retain possession of the piano because the instrument holds the Charles family history. "Money can't buy what that piano cost," she tells her brother. "You can't sell your soul for money."¹

Ownership questions like the one presented in Wilson's play can usually be resolved in the courts—by applying relevant property law. If the piano legally belongs to Berniece, the court will likely rule that her brother has no rightful claim upon it. If the piano is owned jointly by Berniece and Boy Willie, the court would likely order Berniece either to pay her brother a fair sum of money to purchase his half of the instrument or to sell the instrument and divide the proceeds with Boy Willie.² But Wilson chose not to turn *The Piano Lesson* into a compelling courtroom drama in which Berniece and Boy Willie would present their competing claims to judge and jury for resolution. Indeed, Wilson's play suggests that it might be unrealistic to burden the law with resolving property disputes so problematically entangled with the legacy of slavery. Some other kind of non-legal resolution to the piano debate between Berniece and Boy Willie is called for, and Wilson offers playgoers and readers of *The Piano Lesson* that resolution in the final scene of his drama.

II. Symbols and Meanings

Wilson's piano is one of the most compelling symbols in modern American drama, rivaled only, perhaps, by Laura Wingfield's collection of glass animals in Tennessee Williams's *The Glass Menagerie*. Boy Willie cannot understand his sister's attachment to the piano and her

unwillingness to part with the instrument because he fails to understand, or chooses to ignore, the piano's rich symbolic meaning. For Berniece, the piano embodies more than family history; it symbolizes the Charles family's endurance through slavery and Reconstruction. "[T]o understand about that piano . . . you got to go back to slavery time," states Uncle Doaker (42), who helped his brother Boy Charles steal the piano from the Sutters in 1911. According to Doaker, Boy Charles "never could get it [the piano] off his mind. . . . Say it was the story of our whole family and as long as Sutter had it . . . he had us. Say we was still in slavery" (45). Boy Charles paid for the piano with his life. His widow, Mama Ola, Berniece and Boy Willie's mother, grasped the meaning of the piano, as Berniece suggests: "Look at this piano. Look at it. Mama Ola polished this piano with her tears for seventeen years. For seventeen years she rubbed on it till her hands bled. Then she rubbed the blood in . . . mixed it up with the rest of the blood on it. Every day that God breathed life into her body she rubbed and cleaned and polished and prayed over it" (52). As Harry J. Elam Jr. suggests, "For Berniece, selling the piano would desecrate her parents' memories."³

Boy Willie sees his sister's attachment to the piano as purely sentimental: "But I ain't gonna be no fool about no sentimental value. You can sit up here and look at that piano for the next hundred years and it's just gonna be a piano. You can't make it more than that" (51). He boldly asserts his ownership rights to the instrument. "Berniece ain't got no more rights to that piano than I do," he tells Uncle Doaker (42). If Berniece refuses to part with the piano, Boy Willie offers a King Solomon solution to their dispute: cut the instrument in half, sell his half, and allow his sister to keep the other half in her living room.

Though Boy Willie cannot understand the piano's symbolic value, he certainly possesses some intuitive sense of the power of symbols. For Boy Willie, the hundred acres of land that he

wants to purchase from the Sutters is packed with symbolic meaning. “I’m talking about some land,” Boy Willie tells Berniece. “What you get something out of the ground from. . . . You can’t do nothing with that piano up there but sit and look at it” (50). Later in the play, he explains to his sister that land ownership brings empowerment, some sense of equality with whites even in the 1930s Jim Crow South: “If you got a piece of land you’ll find everything else fall into place. You can stand up right next to the white man and talk about the price of cotton . . . the weather, and anything else you want to talk about” (92). Devon Boan is correct when he states that acquiring the Sutter property will offer Boy Willie “for the first time in his life, a substantial degree of achievement and self-realization.”⁴ Brent Staples, the *New York Times* columnist whose ancestors were slaves, has written forcefully about what land ownership meant to his family members after emancipation: the “purchase of land” was “a momentous act in the lives of former slaves.”⁵ Staples’s ancestors proudly protected their land with rifles from the Ku Klux Klan and others bent on reversing emancipation and the benefits resulting from it.

And Boy Willie is not discussing any piece of earth; he is planning to buy a parcel of property on which his ancestors were held as human properties. By purchasing Sutter land, Boy Willie will attempt to reverse the curse of slavery and the legacy of *Dred Scott v. Sandford*, 60 U.S. (19 How) 393 (1857), which asserted that “the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every state that might desire it.”⁶ As Stephen M. Best suggests, slavery is not simply an antebellum institution whose time has passed; it is “a particular *form* of an ongoing crisis involving the subjection of personhood to property.”⁷ The year in Wilson’s drama is 1936, and Boy Willie was born a free

man, but the scars of slavery remain with the Charles family. According to Mary L. Bogumil, Boy Willie, by purchasing Sutter land, can expunge some of those scars:

If he acquires that land . . . , it will validate his existence as a free black man and put him on the right track, as an owner, not a slave like those ancestors represented in the carvings [on the piano]. By acquiring the land from the grandson [of Sutter], Boy Willie will psychologically usurp the power of the grandfather, the slave master who traded Berniece's great-grandmother and Doaker's father for the piano.⁸

Boy Willie never explicitly articulates the symbolic meaning of Sutter's land in his debate with Berniece, and, as Amadon Bissiri suggests, Boy Willie might not even be fully aware himself of the land's significance; but his burning desire to purchase this particular piece of property signals that the Sutter land is, for Boy Willie, more than merely a place to grow crops.⁹

After digesting the arguments of Berniece and Boy Willie, many theatergoers and readers of *The Piano Lesson* might agree with Elam that Wilson "creates convincing and rational arguments on both sides of the divide."¹⁰ An early version of the play ended with no resolution of the siblings' debate—because Wilson saw validity in both arguments.¹¹ But audiences who saw the early version of *The Piano Lesson* urged the playwright to provide some resolution of Berniece and Boy Willie's debate. Lloyd Richards, the Yale Repertory Theatre director with whom Wilson worked so closely, convinced Wilson to revise the play's ending so that audiences could leave the theater with closure.¹² Wilson's ending resolved this debate over property ownership, but the law does not provide the resolution.

IV. A Legal Solution

A legal solution to the case of *Berniece v. Boy Willie* is, of course, theoretically possible. If Berniece and Boy Willie had taken their case to court for resolution, the court would be empowered to settle the question of ownership. Both Boy Willie and Berniece make forceful moral arguments for controlling the fate of the piano, but whose argument would a court find more legally compelling? Does Berniece own the piano, or do she and her brother share ownership rights? If the siblings share ownership rights, can Boy Willie compel his sister to sell the piano so that he can claim his share of its value or to pay him half the fair value of the instrument? Or would the siblings' arguments be moot in a court of law because the Sutter family still retains the ownership rights in a piece of property that was stolen from the Sutter home twenty-five years before the time of the play?

The general rule at common law is that a thief cannot acquire or transfer title to stolen property.¹³ If that general rule were followed in this case, title to the piano would be in Ophelia Sutter, the true owner, or her heirs, and the debate between Boy Willie and Berniece would be moot. There is at common law, however, a well-established exception to this rule, which is that a thief's possessory interest in personal property, after passage of a statutory time period and provided certain conditions are fulfilled, can ripen into title, except as against a claim by the true owner or someone claiming through the true owner. A reason for this exception, which protects possession, is to preserve the peace:

A thief does not get complete title, but analysis shows that he does acquire an interest which is of some value. He has possession—that is, physical custody plus an intention to exclude all others—and although wrongful, yet if left undisturbed for the statutory limitation period, will ripen into a perfect title. Furthermore, it seems that if he is disturbed by anyone except the true owner or one claiming

through or on behalf of the latter, his possession will be protected. . . . [N]o good reason appears why the well settled rule that possession, even though wrongfully acquired, will be protected against trespassers . . . should not apply. The law protects possession to preserve the peace.¹⁴

Therefore, at common law, possession of the piano by Boy Charles, the thief, and his heirs was protected against anyone in the world except the true owner, Ophelia Sutter, and her heirs.

Nothing in the facts of Wilson's play indicates that Ophelia's living heirs were asking to replevy the piano. The only member of the Sutter family who shows an interest in the instrument is the ghost of the recently deceased James Sutter, Ophelia's grandson, who has been haunting Berniece's home since his death. Doaker and Boy Willie believe that the ghost has come to Pittsburgh in search of the piano. "Sutter here cause of that piano," Doaker tells his brother, Wining Boy, who visits Berniece's home during the course of the play. "I heard him playing on it one time. I thought it was Berniece but then she don't play that kind of music. I come out here and ain't seen nobody, but them piano keys was moving a mile a minute" (57). Boy Willie tells his sister, "Sutter was looking for that piano. That's what he was looking for. He had to die to find out where that piano was at" (15). But James Sutter's ghost would have no standing in a court of law. Wining Boy clearly intuitively understands this legal principle: "Sutter dead and in the ground . . . [I] don't care where his ghost is. He can hover around and play on the piano all he want. I want to see him carry it out of the house. That's what I want to see" (58).

The doctrine of adverse possession, adopted by many jurisdictions, including Pennsylvania, provides that a party can acquire title to a chattel by adverse possession by proving hostile, actual, open, notorious, exclusive, and continuous possession of personal property, under a claim of right, for a period of time in excess of a statutorily mandated period of years.¹⁵

Because the location of the piano is Pittsburgh, a relevant Pennsylvania statute applies.¹⁶ The Pennsylvania statute of limitations for replevin of chattels, in effect at the time of play, provided that an action for recovery of personal property must be commenced within six years.¹⁷ The piano was in the possession of Mama Ola or Berniece from 1911 until the time of the play, 1936. According to Doaker, when Boy Charles and his brothers stole the piano on July 4, 1911, they immediately brought it to Boy Charles's wife Mama Ola's people:

DOAKER: . . . [O]n the Fourth of July, 1911 . . . when Sutter was at the picnic what the county give every year . . . me and Wining Boy went on down there with him and took that piano out of Sutter's house. We put it on a wagon and me and Wining Boy carried it over into the next county with Mama Ola's people. (45)

Mama Ola kept the instrument in her possession and "polished this piano with her tears for seventeen years" (52), and Berniece took possession of the instrument after her mother's death. She kept it in her exclusive, actual, and continuous possession for more than seven years, thereby satisfying the six-year statutorily mandated period of years required for acquisition of title to a chattel by adverse possession in Pennsylvania at the time of the play.

Berniece's possession of the piano was unquestionably open, notorious, adverse, and under claim of title, as she and her relatives openly told the story of how the stolen piano came to be in Berniece's possession. That Berniece's possession of and claim of right in the piano were open and notorious was further evidenced by the fact that the people in the community knew that Berniece had the piano, including a white man who was seeking to purchase musical instruments from black folks living in Pittsburgh. As Boy Willie mentions to Reverend Avery early in the play, "Doaker say you sent some white man past the house to look at that piano. Say he was going around to all the colored people's houses looking to buy up musical instruments" (26).

Therefore, the application of the doctrine of adverse possession of chattels to the facts of this play would support Berniece's claim of ownership of the piano, because her possession was open, notorious, actual, exclusive, continuous, adverse, and under claim of right for more than the six-year statutorily mandated period in effect in Pennsylvania at the time of the play.¹⁸

Wining Boy and Doaker, Berniece and Willie Boy's uncles, helped Boy Charles steal the piano, but any adverse possession claims to the piano made by Boy Charles's brothers must be dismissed for lack of actual possession for the requisite period of years. Wining Boy's and Doaker's claims to the piano are discussed and essentially dismissed during the course of the play. While listening to the piano debate between his niece and nephew, Wining Boy boldly asserts his own rights to the piano, an argument that both Boy Willie and Doaker quickly dismiss:

WINING BOY: Well, I got something to say about that [selling the piano].

BOY WILLIE: This my daddy's piano.

WINING BOY: He ain't took it by himself. Me and Doaker helped him.

BOY WILLIE: He died by himself. Where was you and Doaker at then? Don't come telling me nothing about this piano. This is me and Berniece's piano. Am I right Doaker?

DOAKER: Yeah, you right. (49)

Later in the play, Berniece explains that "Doaker don't want no part of that piano. He ain't never wanted no part of it. He blames himself for not staying behind with Papa Boy Charles. He washed his hands of that piano a long time ago. He didn't want me to bring it up here—but I wasn't gonna leave it down there" (69). Doaker dismisses Wining Boy's claim and concedes ownership rights of the piano to his niece and nephew.

Boy Willie asserts partial ownership of the piano, arguing that his father, Boy Charles, or his mother, Mama Ola, passed a portion of their possessory rights in the piano to Boy Willie by descent or devise. At common law, Boy Charles, although a thief, could pass his possessory rights to his heirs.¹⁹ At least three times in the play, Boy Willie claims that half of the piano belongs to him. Early in Act One, Boy Willie asserts, “I’m gonna sell it [the piano]. I own just as much of it as she does” (12). Later in Act One, Boy Willie makes virtually the same statement: “I’m gonna sell it! Berniece ain’t got no more rights to that piano than I do” (42). Later in the same scene, Boy Willie states, “The only thing my daddy had to give me was that piano” (46). However, the fact that Boy Charles, after stealing the piano, transported it to his wife’s family in the next county, suggests his desire to pass his possessory rights to the instrument to his wife, Mama Ola, in the case of his demise, which occurred shortly after the theft, when Boy Charles burned to death in a boxcar of the Yellow Dog railroad. Boy Willie’s assertions notwithstanding, Berniece’s description of Mama Ola’s careful polishing of the piano and her statement “I cleaned it for you, play something for me, Berniece” (52) are evidence that Mama Ola wanted to pass her possessory rights to the piano to her daughter, Berniece, and not to her son, Boy Willie. Because there is no evidence in the play that Boy Charles or Mama Ola intended to, nor in fact did, pass rights in the piano to Boy Willie, his claim would most likely fail in court against that of his sister Berniece. That he is not—and apparently never has been—in possession of the piano would be dispositive of a claim by Boy Willie that he had acquired partial title to the piano by adverse possession.²⁰

V. The Limits of Law

For almost 150 years, a nation dedicated to its citizens' rights to life, liberty, and pursuit of happiness has struggled, through its legal system, to deal with the legacy of slavery. Even before the enactment of the Thirteenth Amendment, Congress established the Freedmen's Bureau to provide food, shelter, jobs, and education to freed slaves. The Fourteenth and Fifteenth Amendments to the United States Constitution attempted to guarantee the freemen's legal rights as citizens and their voting rights. The Civil Rights Acts of 1866 and 1875 attempted to make real the guarantees of those two constitutional amendments. Despite these impressive legal efforts, erasing the effects of slavery was problematic, as slavery gave way to Jim Crow, which featured legal segregation and lynching without trial. It is no surprise that freed slaves and their descendents rarely looked to the law and the courts to solve their problems. When they turned to the law, as Homer Plessy did in 1892 after his arrest for violating the Louisiana Railway Accommodations Act, they often lost.

In *The Behavior of Law*, Donald Black explains that African Americans are less likely than whites to use courts of law to solve their problems. Crimes between black citizens often go unreported to authorities; and according to Black, "The same applies in civil . . . matters. If a poor person kills another poor person in an automobile accident, for example, a lawsuit is less likely."²¹ In the antebellum South, a slave had no legal standing in court, as Dred Scott learned, and even second- and third-generation freemen, like the characters in *The Piano Lesson*, lacked confidence in the courts to resolve their disputes or lacked the resources to finance lawsuits.²²

The characters in Wilson's play are certainly suspicious of the laws and the courts. For run-ins with the law, Boy Willie, Lymon, Doaker, and Wining Boy have all served time at Parchman Farm, the infamous penitentiary work farm in Mississippi. Lymon, Boy Willie's friend from Mississippi, tells Wining Boy and Doaker that he is running from the law. After his

release from the penitentiary, where he and Boy Willie were sent for stealing firewood, Lymon was arrested and sent to jail merely for not working. “Fined me a hundred dollars,” says Lymon. “Mr. Stovall come and paid my hundred dollars and the judge say I got to work for him to pay him back his hundred dollars. I told them I’d rather take my thirty days but they wouldn’t let me do that” (37). During Lymon and Boy Willie’s arrest for stealing firewood, Berniece’s husband Crawley was shot to death by the sheriff and his posse.

In Act One of *The Piano Lesson*, Wining Boy shares an anecdote with Boy Willie, Lymon, and Doaker that reveals his lack of confidence in the law. He tells of a black man who is caught picking wild berries on unfenced land. The white man who owns the land tells the sheriff to arrest the berry picker for stealing the berries. Even if the black man buys the land from the white man, the white man, according to Wining Boy, can “go and fix it with the law that them is his berries.” Wining Boy concludes his story with the statement, “Now that’s the difference between the colored man and the white man. The colored man can’t fix nothing with the law” (38). Boy Willie responds, “I don’t go by what the law say. The law’s liable to say anything. I go by if it’s right or not. It don’t matter to me what the law say. I take and look at it myself” (38-39).

Would an ex-convict like Boy Willie sue his sister in court over a piano that was stolen from a white man twenty-five years earlier? Even if he wanted to resolve his case in court, could he enlist a lawyer to take the case? How would he pay the lawyer? If he wants a favorable resolution of his case, Boy Willie would be best advised to avoid the courts and continue to use his considerable persuasive skills to convince his sister that she is morally obligated to give him a sum of money equal to half of the value of the piano, so that he could use the money to buy Sutter’s land. But Berniece has no money to pay her brother for his claim on the piano.

“Berniece ain’t got no money,” Doaker tells Wining Boy. “She’s having a hard enough time trying to get by as it is” (58).

Since emancipation, the United States legal system has been spectacularly unsuccessful in compensating ex-slaves and their descendents with money or property for their years of unrequited toil. The post-Civil War proposal to award former slaves forty acres and a mule to commence their lives as freemen was never implemented. Various compensation schemes, some proposed as late as the end of the twentieth century, never received significant support from the American citizenry or American politicians. It seems unrealistic for a late-twentieth-century playwright like Wilson to provide a legal solution to resolve the question of the ownership of a piano that was traded for two pieces of human property in 1856, stolen by the immediate descendents of those slaves from the descendents of their owners more than fifty years later, and claimed by the descendents of the thieves. According to Wilson, law is an ineffective and inappropriate means of sorting out the complex property issues at stake in the circumstances that he presents in *The Piano Lesson*.

VI. Wilson’s Solution: Wrestling with the Past

As noted early in this essay, Wilson felt compelled to provide theatergoers and readers of *The Piano Lesson* with some resolution of the debate at the heart of the drama. Viewers’ and readers’ needs aside, the issue that Wilson raises in his play demands resolution. The dispute over the piano at the center of Wilson’s drama is essentially a debate about how twentieth-century African Americans should deal with the legacy of slavery. Should they retain in their collective memories the symbols of their special and tragic ancestry, as Berniece might suggest by her devotion to the family piano, or should they focus on moving on from slavery and

acquiring the economic tools needed to function in the American mainstream, as Boy Willie suggests with his quest for land ownership? Wilson awards Berniece victory in the debate—the play ends with Boy Willie giving up his claim on the piano and returning to Mississippi. But even in defeat, Boy Willie has learned a valuable lesson from his family’s piano, for he has confronted and debated his tragic heritage and wrestled with the ghosts of the past.

Boy Willie senses defeat during the play’s final two scenes as he tries to remove the piano from Berniece’s living room so that he can sell it to a purchaser of musical instruments in Pittsburgh. Despite their best efforts, Boy Willie and Lymon cannot budge the piano. Perhaps Wilson is suggesting that Boy Willie’s attempt to rid this symbol of slavery from his family is impossible; the burden is simply too heavy to dislodge. As Boy Willie begins to appreciate the futility of his effort, Avery, a local minister, arrives at Berniece’s home to exorcise from the premises the ghost of James Sutter, the grandson of the man who ripped apart the Charles family by trading Mama Berniece and young Walter for the piano. As the characters suddenly sense Sutter’s presence in Berniece’s home, Boy Willie seems to realize that selling the piano is less important than purging his family of Sutter’s ghost. He turns his attention from the piano and rushes upstairs (which is offstage), where Sutter’s ghost seems to be hovering, and commences a wrestling match with the spirit. As Boy Willie grapples with the ghost, Berniece begins to play the piano, invoking the names of her slave ancestors as she plays.

Boy Willie’s fight with Sutter’s ghost calls to mind Frederick Douglass’s fistfight with Mr. Covey, an oppressive slave overseer, in *Narrative of the Live of Frederick Douglass, an American Slave*. Douglass’s battle with Covey is a key episode in Douglass’s transition from slave to man,²³ and Boy Willie’s scuffle with Sutter’s ghost plays a similar role in Boy Willie’s development. According to Elam, after Boy Willie vanquishes Sutter’s spirit from his sister’s

home, he realizes that “manhood cannot be determined by external acquisition but by internal pride, self-definition, and self-determination.”²⁴ Shortly after the fight, a calm comes over Berniece’s house, and Boy Willie asks Lymon if he is ready to go home. “Hey Doaker, what time the train leave?” Boy Willie asks his uncle (108).

Wilson’s conclusion to the *Piano Lesson* suggests that resolving property disputes and family issues entangled in the legacy of slavery is no easy task for twentieth-century African Americans—and it is certainly a problematic task for the American legal system. Resolving these issues involves acknowledging the past; keeping its memory alive through symbols; debating those issues, as Berniece and Boy Willie debate the fate of the family piano; and, ultimately, wrestling with the ghosts of the past. That is the piano lesson that Wilson provides theatergoers and readers in one of the twentieth-century’s most riveting dramas.

¹ August Wilson, *The Piano Lesson* (New York: Plume, 1990), p. 50. Future references to Wilson’s text are from this edition and appear parenthetically in the text.

² A third ruling, which we explore later in the essay, is possible. A court can rule that the piano rightfully still belongs to the Sutter family because the Charles family acquired it through theft.

³ Harry J. Elam Jr., “The Dialectics of August Wilson’s *The Piano Lesson*.” *Theatre Journal* 52 (2000), p. 367.

⁴ Devon Boan, “Call-and-Response: Parallel ‘Slave Narrative’ in August Wilson’s *The Piano Lesson*.” *African American Review* 32 (1998), p. 264.

⁵ Brent Staples, “Somerville’s Story and My Great-Grandfather’s Legacy.” *New York Times*, July 10, 2005, sec. 4, p. 11, col. 4.

⁶ For an extended discussion of how the legacy of *Dred Scott* informs *The Piano Lesson*, see James Tackach, “August Wilson’s *The Piano Lesson* and the Legacy of *Dred Scott*.” *The Middle-Atlantic Writers Association Review* 17 (2002), pp. 40-48.

⁷ Stephen M. Best, *The Fugitive’s Properties* (Chicago: University of Chicago Press, 2004), p. 16.

⁸ Mary L. Bogumil, *Understanding August Wilson* (Columbia: University of South Carolina Press), 1999, p. 78.

⁹ Amadon Bissiri, “Aspects of Africanness in August Wilson’s Drama: Reading *The Piano Lesson* through Wole Soyinka’s Drama.” *African American Review* 30 (1996), p. 102.

¹⁰ Elam, p. 362.

¹¹ See Mervyn Rothstein, “Round five for a Theatrical heavyweight.” *New York Times*, April 15, 1990, sec. 2, pp. 1,8.

¹² See Sandra G. Shannon, *The Dramatic Vision of August Wilson* (Washington, D.C.: Howard University Press, 1995), pp. 149-50.

¹³ This rule is well settled: “It is universally acknowledged that a thief acquires no title to a thing stolen and can pass no better title to a purchaser, even though the purchaser buys in good faith. So generally accepted is this rule that a citation of authorities is unnecessary.” *Comments*. 32 Yale L. J. 470, 497 (1922-23). See also Ralph E. Boyer, Herbert Hovenkamp and Sheldon F. Kurtz, *The Law of Property: An Introductory Survey* 4th ed. § 4.13 at 54, 78-79 (1991).

¹⁴ *Comments*, 32 Yale L. J., *supra* note 14, at 497. “Incredible as it may appear, a disseisin by theft vested the property in the stolen chattel in the thief.” J. B. Ames, *The Disseisin of Chattels*, 3 Harv. L. Rev. 23, 24 (1890). See *Anderson v. Gouldberg*, 53 N. W. 636 (Minn. 1892). See also Oliver Wendell Holmes, *The Common Law*, Lecture VI. (1923).

¹⁵ See *Morris' Appeal*, 68 Pa. 16, 23-24 (1871) where the court gives recognition to the doctrine of adverse possession of personal property; see also *Priester v. Milleman*, 55 A. 2d 540, 543-4 (Pa. Super. Ct. 1947), wherein it is stated:

Hence the rule, sustained by the weight of authority, subject to limitations and exceptions which need not be mentioned here, is that where one has had the peaceable, undisturbed, open possession of personal property, with an assertion of his ownership, for the period which bars an action for its recovery by the true owner, the former acquires a good title, superior to that of the latter, whose neglect to assert his legal rights has lost him his title. . . . The possession must be actual, open, notorious, exclusive, hostile, uninterrupted, and always under a claim of right or title. . . .

¹⁶ The *Restatement of the Law of Conflict of Laws* § 49 (1934) regarding jurisdiction over chattels provides that: “. . . [A] chattel is subject to the jurisdiction of the state within which it is.” See *In re Small's Estate*, 25 A. 23 (Pa. 1892). See also *Restatement of the Law of Conflict of Laws Containing Pennsylvania Annotations* § 49 (1936) wherein it is stated that: “This principle is well recognized in the Pennsylvania courts and comes under discussion only where some reason is adduced for non-taxability. . . .” Cf. *Commonwealth v. American Bell Telephone Co.*, 18 A. 122 (Pa. 1889) (telephones); *Finley v. City of Philadelphia*, 32 Pa. 381 (1859) (household furniture); *Commonwealth v. Motors Mortgage Corp.*, 147 A. 98 (Pa. 1929) (automobile); *Commonwealth v. Clyde S.S. Co.*, 110 A. 532 (Pa. 1920). Comments to the Second Restatement of Conflicts are in accord. See *Restatement (Second) of Conflict of Laws* § 246 cmt. b at 81 (1971), which provides in pertinent part:

If a chattel is held in a state for a period sufficient to establish title by adverse possession or prescription under the local law of that state, this title will be recognized in every other

state. Such a result can come about in either one of two ways. First, the chattel may be held adversely in the state for the entire period required by its local law for the transfer of title by adverse possession.

. . . Second, the chattel may successively be held adversely in two or more states, and although the period it is so held in the last of these states is not of itself sufficient, title to the chattel is nevertheless transferred under the local law of that state because account is taken of the time the chattel has already been held adversely in the other state or states. . .

¹⁷ See Pa. Stat. Ann. tit. 12, §31 (West 1931), which provided in pertinent part that an action for replevin for the taking of personal property had to be brought within six (6) years:

All actions of trespass quare clausum fregit, all actions of detinue, trover and replevin, for taking away goods and cattle, all actions upon account and upon the case (other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants) . . . and all actions of trespass, of assault, . . . which shall be sued or brought at any time after the five and twentieth day of April, which shall be in the year of our Lord one thousand seven hundred and thirteen, shall be commenced and sued within the time and limitation hereafter expressed, and not after; that is to say, . . . the said actions for trespass, debt, detinue and replevin, for goods or cattle, and the said actions of trespass quare clausum fregit within three years after the said five and twentieth day of April next, or within six years next after the cause of such actions or suit, and not after. . . (1713, March 27, 1 Sm. L. 76, § 1.)

The six-year statute of limitations that was enacted in 1713 was still in effect in 1936. See *Priester v. Milleman*, 55 A. 2d 540, 542 (Pa. Super. Ct. 1947) where it is indicated that the six-

year statute of limitations for replevin of chattels continued in effect at the time of said opinion.

Note, however, that the relevant Pennsylvania statute of limitations was amended on July 9, 1976, by P.L. 586, No. 142, § 2, effective June 27, 1978, and currently provides as follows:

“The following actions and proceedings must be commenced within two years: . . . An action for taking, detaining or injuring personal property, including actions for specific recovery thereof.”

Pa. Cons. Stat. Ann., tit. § 5524 (West 2004).

¹⁸ Assuming *arguendo* that Berniece had not possessed the piano for the requisite six years, Berniece would have been permitted to tack on her mother Mama Ola’s seventeen year possession of the piano. “Tacking” is the ability of a possessor of real property to add to his or her time of possession, that of a previous possessor. Its application by analogy to the possession of personal property has been accepted by many courts. See Patty Gerstenblith, *The Adverse Possession of Personal Property*, 37 Buff. L. Rev. 119, 145-148 (1989).

¹⁹ See Oliver Wendell Holmes, *The Common Law*, *supra* note 15 at 215, where it is stated that “possessory rights pass by descent or devise. . . .”

²⁰ Courts uniformly require, *inter alia*, that an adverse possessor have actual possession of the personal property for a period of years. See generally *supra* note 15.

²¹ Donald Black, *The Behavior of Law* (New York: Academic Press, 1976), p. 17.

²² It is interesting that *The Piano Lesson* is set in 1936, the same year that Thurgood Marshall won his first major legal battle against school segregation, in *Pearson v. Maryland*, 182 A. 590 (Md. 1936), where the Court of Appeals of Maryland upheld a Baltimore City Court order to desegregate the University of Maryland Law School. This same law school had rejected Marshall’s own application for admission a few years earlier.

²³ See Frederick Douglass, *Narrative of the Life of Frederick Douglass, an American Slave* (1845; rpt. New York: Anchor Books, 1973), pp. 63-75. See also, Tackach, p. 46.

²⁴ Elam, pp. 365.