

ALETHA HALL,

Complainant,

VS.

MYRTLE JOINER, et al,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2446

MOTION

Now comes Myrtle Joiner, one of the Respondents in the above styled cause, by her Solicitor, and moves the Honorable Hubert M. Hall to recuse himself in this cause and for grounds for said motion assigns the following:

1. That the said Honorable Hubert M. Hall was the Solicitor for the Complainant in said cause before he was elected and took office as Circuit Judge of the Twenty-eighth Judicial Circuit of Alabama, which is the court in which this cause was tried.

2. That the said Honorable Hubert M. Hall, Circuit Judge of the Twenty-eighth Judicial Circuit of Alabama, the court in which this cause was tried, is related to the Complainant within the fourth degree of consanguinity or affinity.


Solicitor for Respondents.

MOTION

2446

ALETHA HALL,

Complainant,

VS.

MYRTLE JOINER, ET AL,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2446

FILED

MAR 2 1956

ALICE J. DUCK, ~~Clk~~ Registrar

ALETHA HALL

COMPLAINANT

VS

MYRTLE UJOINER, ET AL,

RESPONDENTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

CASE NO. 2446

Comes now the Complainant in the above styled cause and demurs to the Complainant's Motion to Vacate Judgment and to each and every ground therefor separately and severally and says:

1.

Each ground assigned therefor is but a conclusion of the Pleader.

2.

Each ground of this motion fails to state wherein the Judgment is void.

3.

Each ground of this motion fails to show wherein the Judge rendering the decree is disqualified.

Wilters & Brantley

BY:

Albert M Brantley
Solicitors for the Complainant

2446

ALETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

DEMURRERS

FILED
AUG 1 1958

ALICE J. DUCK, Clerk

Myrtle Joiner et al served on

Myrtle Joiner et al

Myrtle Joiner et al

ALETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL.,

RESPONDENTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 2446

MOTION TO CONFIRM SALE

Comes the Complainant in the above entitled cause and moves the Court for a decree confirming the report of sale heretofore made and filed in this cause by the Register on the 1st day of Nov., 1955.

Walters & Brantley

BY:

Robert M Brantley
Solicitors for the Complainant

ALETHA HALL,	Y	
Complainant,	Y	IN THE CIRCUIT COURT OF
Vs.	Y	BALDWIN COUNTY, ALABAMA
MYRTLE JOINER, et al,	Y	IN EQUITY
Respondents.	Y	CASE NO. 2446

This day came the Complainant, by her Attorney, in the above styled cause and presented a Motion unto the Court moving the Court to rule on demurs heretofore filed to the Respondent's Motion filed in this cause on, to-wit, the 2nd day of March, 1956, and upon consideration of the same, the Court is of the opinion that this Motion should be granted and the demurs to the Respondent's Motion should be sustained.

It is, therefore, ORDERED, ADJUDGED and DECREED that the Complainant's demurs to the Respondent's Motion filed on, to-wit, the 2nd day of March, 1956, in this cause, be and they are hereby sustained.

Done this the 25th day of January, 1965.

Telfair J. Mashburn
Telfair J. Mashburn, Circuit Judge

FILED
JAN 25 1965
ALICE J. DICK, CLERK
REGISTER

LETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

CASE NO. 2446

Comes now the Complainant in the above styled cause and for answer to the Respondents' Motion to Vacate judgment filed in this cause on March 2, 1956, says as follows:

1.

The Respondent appeared generally, by an attorney of her choice, in this cause on the 14th day of April, 1955. The question of the Judge's disqualifications was not raised at that time; it was thereby waived.

The Respondent is now estopped from raising this issue.

Wilters & Brantley

FILED

JUL 2 - 1959

ALICE J. DUCK, CLERK
REGISTER

BY:

Robert M. Brantley
Solicitors for Complainant

2442

LETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

ANSWER

FILED

JUL 2 1959

ALICE L. DUCK, CLERK &
REGISTER

HARRY J. WILTERS, JR.
TOLBERT M. BRANTLEY
ASSOCIATE;
PHYLLIS S. NESSIT

LAW OFFICES OF
WILTERS & BRANTLEY

P. O. BOX 327
BAY MINETTE, ALABAMA

P. O. BOX 337
ROBERTSDALE, ALABAMA

PHONES
BAY MINETTE 5151
ROBERTSDALE WI 7-4682

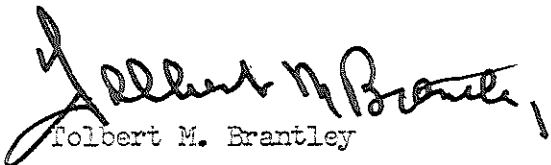
July 2, 1959

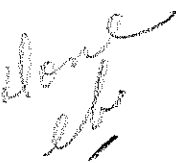
Mrs. Alice J. Duck
Bay Minette, Alabama

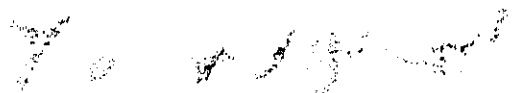
Dear Mrs. Duck:

Please mail Mrs. Myrtle Joiner a copy of Jimmy Owen's notice of withdrawal in the case of Hall vs Joiner.

Yours truly,


Tolbert M. Brantley


TNB?/ew



ALETHA HALL,
Complainant,

vs

MYRTLE JOINER, ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY No. 2446

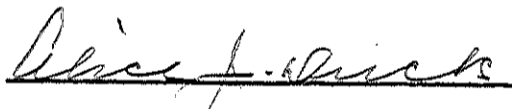
APPOINTMENT OF SPECIAL JUDGE

WHEREAS, it has been made known to me that Hon. Hubert M. Hall, Judge of Circuit Court of Baldwin County, Alabama, has declared himself incompetent to try, hear or render judgment in the above styled cause because of his having been of counsel to one of the parties hereto at one time in reference to matters now in dispute and does hereby recuse himself from presiding upon the hearing of said cause, and

WHEREAS Hon. Norborne C. Stone possesses the qualifications of a Circuit Judge, as provided by law, and is proper person to be appointed as Judge to hear said cause;

I Therefore appoint Hon. Norborne C. Stone to preside as Judge in the above stated cause;

WITNESS my hand this 4th day of December, 1957.


Register.

2446

Copy mailed
to James 9-27-55

LETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

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IN THE CIRCUIT COURT OF

BALDWINCOUNTY, ALABAMA,

IN EQUITY

CASE NO. 2446

Comes now James R. Owen, Solicitor of record for the Respondents in the above styled cause, and files this his formal notice of withdrawal as attorney for the Respondents in this cause and respectfully requests the Register of this court to give notice to the Respondents of this withdrawal.

FILED

JUN 2 1959

ALICE J. DUCK, CLERK
REGISTER

James R. Owen
Solicitor for the Respondents.

2446

LETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

NOTICE OF WITHDRAWAL

FILED

JUL 2 1959

ALICE J. DUCK, CLERK
REGISTERED

ALETHA HALL,

Complainant,

vs.

MYRTLE JOINER, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 2446.

DECREE OF RECUSAL

It appearing to the undersigned that in the further progress of the above styled cause in this Court, it is appropriate that the undersigned recuse himself from further sitting as Judge therein on account of his being related to one of the parties to said cause, namely, Aletha Hall, within the degree of consanguinity prohibited by the statute, it is, therefore ORDERED as follows:

That the undersigned does hereby recuse himself from sitting as Judge in the above styled cause and the Register of the Circuit Court of Baldwin County, Alabama, sitting in Equity, is hereby directed to appoint a special judge to hear the said cause.

ORDERED this the 19th day of November, 1957.

T. Hubert M. Stone
Judge.

Equity

2446

FILED

DEC 3 1957

ALICE J. DUCK, Register

ALBERTA HALL

COMPLAINANT

VS

LAWRENCE JOINER

RESPONDENT

IN THE CIRCUIT COURT OF

BALEWIN COUNTY, ALABAMA,

IN EQUITY

NO. 2446

It appearing to the Court that Lawrence Joiner died after this action was commenced, leaving a widow, Myrtle Joiner and 8 minor children, Verlob Joiner, Catherine Joiner, William Earl Joiner, Robert Lamar Joiner, Kenneth Ray Joiner, Marlan Ann Joiner, Thomas Jerrill Joiner and James Edward Joiner.

It is therefore Ordered, Adjudged and Decreed that Wilson Hayes a practicing attorney, be and he is hereby appointed as guardian ad litem to represent the minor children of Lawrence Joiner, deceased.

Done this 29 day of June, 1955.

Hubert M. Hall
JUDGE

Comes now Wilson Hayes and accepts the appointment of guardian ad litem for the minor children of Lawrence Joiner, deceased.

Wilson Hayes
Guardian ad Litem

And for answer to this Bill of Complaint says: That he denies each and every allegation contained therein and demands strict proof thereof.

Wilson Hayes
Guardian Ad Litem

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon, Lawrence Joiner, to appear and plead, answer or demur within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in equity, by Aletha Hall, as Complainant and against Lawrence Joiner, as Respondent.

WITNESS my hand this the 29th day of March, 1950.

Dwight H. Hester
Register

ALETHA HALL

COMPLAINANT

VS.

LAWRENCE JOINER

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

TO HONORABLE TELFAIR J. MASHBURN JR., JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY.

Your Complainant, Aletha Hall, respectfully represents and shows unto the Court as follows:

1. That your Complainant and the Respondent are bona fide residents of Baldwin County, Alabama, and over twenty-one years of age.
2. That on to-wit, May 24, 1949, your Complainant furnished to the Respondent for the purpose of buying, or as a part of the purchase price of the following described lands in Baldwin County, Alabama, to-wit:

All that certain lot or parcel of land situated in the Northeast quarter of the Southwest quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the public road from Dolive to Bay Minette and being in the form of a square; each side of which is 208.7 feet and the Southerly side of which is the Northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the section and 1368 feet due North of the South line of said section, containing in all 1 acre of land.

3. That it was expressly understood, and the money was advanced by your Complainant to the Respondent, relying upon the promise and the agreement that the Respondent would execute and deliver to your Complainant a first Mortgage upon the property herein described;

4. That your Complainant has requested the Respondent to execute and deliver to her a Mortgage upon the said property or to refund to her the money advanced by her to the Complainant for the purpose of purchasing the said property;

5. That the said money was advanced by your Complainant to the Respondent for the purpose of and was used to purchase the said property herein described or to pay an indebtedness against the same;

6. That your Complainant offers to do equity and to comply with any orders and decrees of this court.

7. That the property herein above described was purchased by the Respondent and proper conveyance thereof made to him.

WHEREFORE the premises considered, your Complainant prays that your Honor will by proper process make the said Lawrence Joiner, party respondent to this bill of complaint, requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Your Complainant further prays that upon a final hearing hereof, your Honor will make and enter a decree establishing a lien in favor of the Plaintiff and against the Defendant, and the property herein described, to-wit:

All that certain lot or parcel of land situated in the Northeast quarter of the Southwest quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the public road from Dolive to Bay Minette and being in the form of a square; each side of which is 208.7 feet and the Southerly side of which is the Northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the section and 1868 feet due North of the South line of said section, containing in all 1 acre of land.

That a further decree be made requiring the Respondent to pay to the Plaintiff the said amount, to-wit, \$225.00, together with interest thereon, from May 24, 1945, and that unless the Respondent pays said amount to your Complainant within thirty days from the date of said decree that the Register of this Court be authorized, directed and empowered to sell said property and make proper conveyance to the purchaser, and from the proceeds of said sale, to apply to your Complainant, the amount ascertained and determined by the Court to be due by the Respondent to your Complainant. Complainant prays for such other, further, different or general relief as she may be in equity and good conscience entitled to receive.

FILED

March 29 1950

ALICE J. GUCK, Clerk


Solicitor for Complainant

NO 2446
2446

RECORDED

ALETHA HALL
COMPLAINANT
VS.
LAWRENCE JOINER
RESPONDENT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

In the Law office of H. H. Hall
Filed this 29th day of March, 1950

W. J. H. H. Hall
Repr. H. H. Hall

Received in Sheriff's Office
this 29 day of June, 1950
TAYLOR WILKINS, Sheriff

Received in Sheriff's Office
this 29 day of June, 1950
TAYLOR WILKINS, Sheriff
and on 29 day of June, 1950
I served a copy of the within on _____

By service on *Lawrence Joiner*
TAYLOR WILKINS, Sheriff
By *J. H. H. Hall*

ALETHA HALL,

Complainant,

VS.

LAWRENCE JOINER,

Respondent.

IN THE

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA?

IN EQUITY.

No 2446

Aletha Hall, as Complainant, having filed her petition in this Court setting up the pendency of a suit therein in which she was Complainant and Lawrence Joiner, Respondent, and that the said Lawrence Joiner, since the filing of the suit and on-to-wit: August 5, 1950, died intestate, leaving heirs in Baldwin County, Alabama, and praying that the said suit be revived and she be permitted to prosecute said suit against the heirs of said Lawrence Joiner, deceased.

The Court, after considering the matter, is of the opinion that the Complainant is entitled to the relief prayed for.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the said petition be granted, and that this cause be revived in the name of Aletha Hall, as Complainant, and against Myrtle Joiner, Jessie Willard Joiner, Lawrence E. Joiner, William Shirley Joiner, James R. Joiner, Verlon Joiner, Catherine Joiner, William Earl Joiner, Robert Lamar Joiner, Kenneth Ray Joiner, Marlan Ann Joiner, Thomas Jerrill Joiner, James Edward Joiner, as Respondents.

Dated at Bay Minette, Alabama, this 8 day of March, 1955.

Hubert M. Shaw
Judge

The State of Alabama, Baldwin County

IN CIRCUIT COURT, IN EQUITY

To any Sheriff of the State of Alabama—Greeting:

You are hereby commanded to summon Myrtle Joiner, Jessie Willard Joiner,
Lawrence E. Joiner, William Shirley Joiner, James R. Joiner, Verlon Joiner,
Catherine Joiner, William Earl Joiner, Robert Lamar Joiner, Kenneth Ray Joiner,
Marlan Ann Joiner, Thomas Jerrill Joiner, James Edward Joiner

to appear and answer, plead, or demur, within thirty days from the service hereof, to a Bill of Com-
plaint filed in said Circuit Court, in equity, for said County of said State by

Aletha Hall

against Myrtle Joiner, Jessie Willard Joiner, Lawrence E. Joiner, William
Shirley Joiner, James R. Joiner, Verlon Joiner, Catherine Joiner, William
Earl Joiner, Robert Lamar Joiner, Kenneth Ray Joiner, Marlan Ann Joiner,
Thomas Jerrill Joiner, James Edward Joiner.

Herein fail not. Due return make of this writ as the law directs.

Witness this 9 day of March, 19 55

Rein J. Clark, Register.

(Defendant is entitled to a copy of the bill on application to the Register.)

Code 1923-6528-6529

BOOK 017 PAGE 276

The State of Alabama

Baldwin COUNTY.

IN CIRCUIT COURT, IN EQUITY

Altha Hall

vs.

Lawrence Janner

SUMMONS

Returned by the Sheriff and filed in office, this

the day of , 19.

, Register.

Received in office, this the 9 day of

March, 1953

Myron W. Williams Sheriff.

I have executed the within by leaving a copy

thereof with

Murtle Janner

Jessie Willard Janner

Lawrence E. Janner

William Shirley Janner

Vernon Janner

Catherine Janner

William Earl Janner

Robert Lamar Janner

Kinzie Ray Janner

Myron W. Williams Janner

Thomas W. Williams Janner

defendant named herein, on this the 9 day of April, 1953

Taylor W. Williams Sheriff.

By J. W. Horn Deputy.

ALETHA HALL,
Complainant,
VS.
MYRTLE JOINER, ET AL.,
REspondents.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. IN EQUITY.
NO. 2446

This cause coming on to be heard is submitted for a final decree upon the following: Original bill of complaint filed March 29, 1950, styled Aletha Hall, Complainant, vs. Lawrence Joiner, Respondent; Decree of the Court, dated March 8, 1955, reviving the suit as against Myrtle Joiner, et al., Respondents; Amended bill of Complaint filed June 29, 1955; Lis Pendens notice filed in the office of the Probate Judge of Baldwin County, Alabama, on March 29, 1950, and of record therein in Judgement Book 4 at page 399; Appointment and Acceptance of Wilson Hayes, as Guardian Ad Litem; and all parties being present in Court, either in person or by Attorney, or Guardian Ad Litem, the Court, after considering all of the pleadings and the testimony taken ore tenus in open Court is of the opinion that the Com plainant Aletha Hall, is entitled to the relief prayed for. The Court further finds that the Respondents are indebted to the Complainant in the sum of TWO HUNDRED TWENTY FIVE AND 00/100 (\$225.00) DOLLARS, together with interest since May 24, 1949, or a total of THREE HUNDRED SEVEN AND 15/100 (\$307.15) DOLLARS. That the Complainant is entitled to a lien against the property described in the original bill of complaint, which is described as follows:

All that certain lot or parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the Public road from Dolive to Bay Minette, and being in the form of a square; each side of which is 208.7 feet and the southerly side of which is the northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the Section and 1868 feet due north of the South line of said section, containing in all 1 acre of land.

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complainant, Aletha Hall, has a lien against the property, the subject of this suit, in Baldwin County, Alabama, to-wit:

All that certain lot or parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the Public Road from Dolive to Bay Minette, and being in the form of a square; each side of which is 208.7 feet and the southerly side of which is the northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the Section and 1868 feet due north of the South line of said Section, containing in all 1 acre of land.

for the sum of THREE HUNDRED SEVEN AND 15/100 (\$307.15) DOLLARS.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent, Myrtle Joiner, be and she is hereby given 30 days in which to pay the amount herein, THREE HUNDRED SEVEN AND 15/100 (\$307.15) DOLLARS, and that upon her failure or refusal to pay said amount, that the Register of this Court be, and she is hereby authorized and directed and empowered to sell the said property herein described, at public outcry, for cash, to the highest bidder, in front of the Courthouse at Bay Minette Baldwin County, Alabama, during the legal hours of sale, after having first given notice of said intended sale by publication thereof for four consecutive weeks in the Baldwin Times, a Newspaper published in Bay Minette, Baldwin County, Alabama, and to execute conveyance thereof to the purchaser.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that from the proceeds of said sale, the Register of the Court will first pay the cost herein, then to the Complainant the amount herein specified, THREE HUNDRED SEVEN AND 15/100 (\$307.15) DOLLARS, or so much thereof as may be realized from the sale of said property, and the balance to be paid into the hands of Myrtle Joiner.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Register of this Court report her findings for such other, further or different decrees and orders as may be necessary and proper in the premises.

DATED THIS 30th day of June, 1955.

Hubert M. Hall
Judge, 28th Judicial Circuit of Alabama.

ALETHA HALL,

Complainant,

VS.

MYRTLE JOINER, ET AL,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2446

MOTION TO VACATE JUDGMENT


Now comes Myrtle Joiner, one of the Respondents in the above styled cause, by her Solicitor, and moves the Court to vacate the judgment heretofore issued in this cause and as grounds for said motion assigns the following separately and severally:

1. The final decree heretofore rendered in this cause on to-wit, June 30, 1955, is void.

2. The final decree issued in this cause on to-wit, June 30, 1955, is void due to the fact that the Honorable Hubert M. Hall, the Judge entering the said decree, was disqualified in said cause.

3. The final decree issued in this cause on to-wit, June 30, 1955, is void due to the fact that the Honorable Hubert M. Hall, the Judge entering the said decree, was the Solicitor for the Complainant and filed the original Complaint in the said cause.

4. The final decree entered in said cause on to-wit, June 30, 1955, is void because the Judge entering the said decree was disqualified, the said disqualification appearing upon the records and there is no waiver of such disqualification as required by statute.


Solicitor for Complainant.

MOTION TO VACATE JUDGMENT

ALETHA HALL,

Complainant,

VS.

MYRTLE JOINER, ET AL,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2446

FILED

MAR 2 1956

ALICE L. DUCK, ~~clerk~~ Register

ALETHA HALL,

X

Complainant,

X

Vs.

X

MYRTLE JOINER, JESSE JOINER,
LAWRENCE E. JOINER, WILLIAM
SHIRLEY JOINER, JAMES R.
JOINER, VERLON JOINER,
CATHERINE JOINER, WILLIAM
EARL JOINER, ROBERT LAMAR
JOINER, KENNETH RAY JOINER,
MARLAN ANN JOINER, THOMAS
JERRILL, JOINER, JAMES EDWARD
JOINER,

X

X

X

X

X

X

Respondents.

X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

CASE NO. 2446

MOTION

Comes now the Complainant in the above styled cause and shows unto the Court as follows:

1.

That in March of 1950, the Complainant sued Lawrence Joiner to establish a lien on certain property described in the Bill of Complaint. That this suit was revived against the above named Respondents. That on June 30, 1955, the Court entered an order fixing a lien on said property and on the 31st day of October, 1955, the property was sold by the Register of the Court to satisfy said lien. At said sale, Aletha Hall became the purchaser thereof; an order was entered confirming said sale.

2.

That on March 2, 1956, one of the Respondents filed a Motion to set aside the Final Decree dated June 30, 1955 and made a Motion to have the Circuit Judge recuse himself in this cause. Upon this last motion being made, the Circuit Judge recused himself and a special judge was appointed in his stead on the 4th day of December, 1957. Demurs were filed to the Respondent's Motion. The Attorney for the Respondent then withdrew his appearance in this cause. The special judge appointed in this case as not ruled on these demurs. There is no longer a neces-

sity for a special judge in this cause.

Premises considered, your movant prays that Your Honor will enter an order sustaining the Complainants demurs to the Respondents Motion. In the event Your Honor feels that the demurs are not well taken, the Complainant prays that Your Honor will forthwith set this matter down for a hearing after giving legal notice to the Respondent of the time and place of the taking of testimony.

Respectfully submitted,

ALETA HALL

BY:

Tolbert M. Brantley
Tolbert M. Brantley, Movant

FILED

JAN 25 1965

ALICE L. DUCK, CLERK
REGISTER

ALETHA HALL,)	
Complainant,)	IN THE CIRCUIT COURT OF
VS.)	BALDWIN COUNTY, ALABAMA
MYRTLE JOINER, et al.)	IN EQUITY
Respondents.)	CASE NO. 2446

MOTION

Comes now the Complainant in the above styled cause and shows unto the Court as follows:

1.

That in March of 1950, the Complainant sued Lawrence Joiner to establish a lien on certain property described in the Bill of Complaint. That this suit was revived against the above named Respondents. That on June 30, 1955, the Court entered an order fixing a lien on said property and on the 31st day of October, 1955, the property was sold by the Register of the Court to satisfy said lien. At said sale, Aletha Hall became the purchaser thereof; an order was entered confirming said sale.

2.

That on March 2, 1956, one of the Respondents filed a Motion to set aside the Final Decree dated June 30, 1955, and made a Motion to have the Circuit Judge recuse himself in this cause. Upon this last motion being made, the Circuit Judge recused himself and a special judge was appointed in his stead on the 4th day of December, 1957. Demurs were filed to the Respondent's Motion. The Attorney for the Respondent then withdrew his appearance in this cause. There is no longer a necessity for a special judge in this cause.

3.

On the 25th day of January, 1965, the Court sustained the Complainant's demurrers to the Respondent's Motion filed in this cause on the 2nd day of March, 1956.

Since that time, the Respondents have failed to amend their Motion.

Premises considered, Your Movant respectfully prays that Your Honor will forthwith dismiss the Respondents' Motion filed in this cause on the 2nd day of March, 1956, because of their failure to amend or plead further.

WILTERS & BRANTLEY

BY:

William M Brantley
Attorney for Movant, Aletha Hall

DECREE

Having read and considered the foregoing Motion, the Court is of the opinion that the Complainant is entitled to the relief she seeks.

It is therefore ORDERED, ADJUDGED and DECREED that the Respondent's Motion filed in this cause on the 2nd day of March, 1956, be and the same is hereby dismissed.

Done this the 17th day of January, 1968.

Telfair Mashburn
Telfair Mashburn
Circuit Judge

FILED

JAN 18 1968

ALICE J. DUCK

CLERK
REGISTER

ALETHA HALL

COMPLAINANT

VS.

MYRTLE JOINER, JESSE JOINER,
LAWRENCE E. JOINER, WILLIAM SHIRLEY
JOINER, JAMES R. JOINER, VERLON
JOINER, CATHERINE JOINER, WILLIAM
EARL JOINER, ROBERT LAMAR JOINER,
KENNETH RAY JOINER, MARLAN ANN
JOINER, THOMAS JERRILL JOINER, JAMES
EDWARD JOINER,

RESPONDENTS

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

no 2446

Comes now the Respondents, Myrtle Joiner, Jesse Willard Joiner, and Lawrence E. Joiner, in the above styled cause and demur to the Bill of Complaint, and as grounds therefor assign the following, seperately, and severally, to the bill as a whole and, seperately and severally, to each and every aspect thereof:

1. There is no equity in the Bill of Complaint.
2. It affirmatively appears that Complaint is not entitled to equitable relief.
3. Complainant has a good and adequate remedy at law.
4. Aspect (2) of the Bill of Complaint cannot be construed to mean anything.
5. Complainant does not allege that any consideration was given Respondent in the alleged agreement to execute and deliver a first mortgage in the described property.
6. Complaint does not allege what consideration was given Respondents for the alleged promise and agreement to execute and deliver to Complainant a first mortgage upon the property described.
7. It does not appear from the Bill of Complaint that Complainant agreed to furnish any money or thing of value for the purpose of purchasing the described property.
8. It does not appear from the Complaint that anything of value was furnished Respondents by Complainant for any purpose.
9. It does not appear from the Bill of Complaint that Complainant furnished the money requested to be refunded to her.
10. For aught that appears in the Bill of Complaint the alleged debt has been paid.
11. For aught that appears in the Bill of Complaint that alleged agreement to execute and deliver a mortgage has been carried out.

12. For aught that appears in the Bill of Complaint Respondents have always been willing and ready to perform the alleged agreement.

13. For aught that appears in the Bill of Complaint Respondents have complied with Complainant's request to execute and deliver to her a mortgage upon said property as to refund to her the money allegedly advanced by her to Respondents for the purpose of purchasing the said property.

14. Complainant's Complaint is vague and indefinite.

15. Complainant's Complaint is vague, indefinite and uncertain.

16. Complainant's Complaint is vague, indefinite and uncertain in that paragraph (2.) of the Complaint cannot be construed to mean anything.


17. Complainant's Complaint is vague, indefinite and uncertain in that no allegation is made that Complainant advanced anything of value to Respondents for the promise and agreement that Respondents would execute and deliver to Complaint a first mortgage upon the property described in the Complaint.

18. Complainant is not entitled to any relief under the Bill of Complaint.

19. Complainant's Complaint does not entitled her to any relief.

20. For aught that appears in the Bill of Complaint the alleged contract or agreement is barred by the Statute of Frauds.

21. For aught that appears in the Bill of Complaint, the alleged contract or agreement to execute and deliver a mortgage to complainant was by parol.


SOLICITOR FOR RESPONDENTS

Demure

Eg. # 2446

Hall

v

Gaines

FILED

APR 14 1955

ALICE J. DUCK, REGISTRAR

STATE OF ALABAMA)
*
BALDWIN COUNTY)


Before me, the undersigned authority, personally appeared James R. Owen who first being duly and legally sworn deposes and says:

That he is a practicing attorney in Bay Minette, Baldwin County, Alabama.

That on to-wit, February 28, 1956, he was employed by Myrtle Joiner to represent her in the case of Aletha Hall, Complainant, vs. Myrtle Joiner, et al, Respondents, in the Circuit Court of Baldwin County, Alabama, in Equity, Case No. 2446. That upon the examination of the file in this cause he ascertained that the original Bill of Complaint in this said cause, which was filed on March 29, 1950, was filed by Hubert M. Hall, Solicitor for Complainant, and that on to-wit, June 30, 1955, the said Hubert M. Hall, who was then and there Circuit Judge of the Twenty-eighth Judicial Circuit of Alabama, rendered a final decree in the said cause in favor of the Complainant.



Sworn to and subscribed before me
on this the 28th day of February, 1956.


Notary Public, Baldwin County, Alabama.

RECEIVED

COMMUNICATIONS SECTION

RECEIVED MAR 2 1956

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FILED
MAR 2 1956
AUGIE L. BROWN, ~~State~~ Registrar

ALETHA HALL,

Complainant,

VS.

LAWRENCE JOINER,

Respondent.

IN THE

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA?

IN EQUITY.

Aletha Hall, as Complainant, having filed her petition in this Court setting up the pendency of a suit therein in which she was Complainant and Lawrence Joiner, Respondent, and that the said Lawrence Joiner, since the filing of the suit and on-to-wit: August 5, 1950, died intestate, leaving heirs in Baldwin County, Alabama, and praying that the said suit be revived and she be permitted to prosecute said suit against the heirs of said Lawrence Joiner, deceased.

The Court, after considering the matter, is of the opinion that the Complainant is entitled to the relief prayed for.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the said petition be granted, and that this cause be revived in the name of Aletha Hall, as Complainant, and against Myrtle Joiner, Jessie Willard Joiner, Lawrence E. Joiner, William Shirley Joiner, James R. Joiner, Verlon Joiner, Catherine Joiner, William Earl Joiner, Robert Lamar Joiner, Kenneth Ray Joiner, Marlan Ann Joiner, Thomas Jerrill Joiner, James Edward Joiner, as Respondents.

Dated at Bay Minette, Alabama, this 8 day of March, 1955.

Judge

ALETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL,

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY

NO. 2446

DECREE CONFIRMING FORECLOSURE SALE

This cause coming on further to be heard upon the report of sale made by the Register, now comes the parties, and it appearing to the Court that the report of sale made and filed herein by the Register of this Court, on the 1st day of November 1955, having been read in open court, and ordered to lie over for exceptions, and it further appearing that no exceptions have been filed thereto; that said sale was made pursuant to and in conformity with the decree of sale, as in said report recited; that said sale was fairly conducted, and no reason appearing why the said report should not be confirmed: it is therefore,

Considered, ordered, adjudged and decreed that the said report so made and filed by the Register, as aforesaid, be and the same hereby is in all things approved, ratified and confirmed, and that Alice J. Duck, as register, be and hereby is authorized, directed and empowered to make execute and deliver to Aletha Hall, the successful bidder at said sale, a deed conveying to him, his heirs and assigns, the property in the decree of sale set forth and described, together withall of the right, title, claim and interest which the said Myrtle Joiner had or held in and to said property at the time of the execution of the mortgage set forth and described in the bill of complaint.

It is further ordered, adjudged and decreed that the Complainant, Aletha Hall, pay the costs of court in this behalf incurred, which the court finds to be \$ 95.46, and credit as of this date the balance of its bid upon the mortgage indebtedness as ascertained and fixed by the former decree of this Court.

Done this the 14 day of Nov, 1955.

Herb M. Hall
JUDGE

2446

Hall

vs

Joyner

Filed 11-19-55
Alice J. Duck
Registrar

JIMMY FAULKNER
PUBLISHER

THE BALDWIN TIMES

BALDWIN COUNTY

Alabama's Best County's Best Newspaper

BAY MINETTE, ALABAMA

Legal Notice

ALETHA HALL, Complainant
Vs.
LAWRENCE JOINER, Respondent

In The Circuit Court of Baldwin

County, Alabama, In Equity

By virtue of a decree in the above stated cause rendered on

the 30th day of June, 1955, by the Circuit Court, in Equity, to satisfy said decree, I will sell to the highest and best bidder for cash, at public sale, at the North Court House door of said County, between the hours of 11 A.M. and 3 P.M. on Monday the 31st day of October, 1955, the following described property to-wit:

All that certain lot or parcel of land situated in the Northeast quarter of the Southwest quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the public road from Dolive to Bay Minette, and being in the form of a square, each side of which is 208.7 feet and the Southerly side of which is the Northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the Section and 1868 feet due North of the South line of said Section, containing in all 1 acre of land.

This the 27th day of September, 1955.

ALICE J. DUCK
Register.

37-4tc.

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA
BALDWIN COUNTY.

E. R. Mounsett, Jr., being duly sworn, deposes and says that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Aletha Hall vs. Lawrence Joiner

COST STATEMENT

221 WORDS @ 6 1/2 cents — — \$ 14 36
I hereby certify this it correct, due and unpaid (paid).

E. R. Mounsett, Jr.
Editor Publisher.

was published in said newspaper for 4 consecutive weeks in the following issues:

Date of 1st publication Sept. 29, 1955 Vol. 66 No. 37

Date of 2nd publication Oct. 6, 1955 Vol. 66 No. 38

Date of 3rd publication Oct. 13, 1955 Vol. 66 No. 39

Date of 4th publication Oct. 20, 1955 Vol. 66 No. 40

Subscribed and sworn before the undersigned this 20 day of Oct, 1955

Darwin Martin
Notary Public, Baldwin County.

E. R. Mounsett, Jr.
Editor Publisher.

ALETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, ET AL.

RESPONDENTS

IN THE CIRCUIT COURT OF

BAWDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 2446

REGISTER'S REPORT OF SALE

To the Honorable Judge of said Court:

The undersigned, Alice J. Duck, as Register of said Court, respectfully reports:

That pursuant to the decree of sale heretofore made and entered on, to-wit: the 30th day of June, 1955, in the above entitled cause, directing Her to sell the real property therein described at public sale, in the manner in said decree recited, and to make due report thereof to this Court, she, as such Register, did on the 31st day of October, 1955, at the hour of 3 P.M., offer for sale to the highest bidder for cash, in front of the court house door of Baldwin County, Alabama, the real property in said decree described, at which sale, Aletha Hall bid for the said property the sum of \$307.15, which was the highest, last and best bid received therefor; that said property was knocked off to the said bidder at said price, subject to the confirmation and approval of this Court; that notice of the time, terms and place of said sale, together with a description of the property directed to be sold, which is set forth and described in said decree, was given by publication in the Baldwin Times, a newspaper of general circulation, published in Baldwin County, Alabama, for three consecutive weeks prior to said sale, all in strict conformity with the said decree of sale; that said sale was fairly conducted, and in all things in strict conformity with said decree of said sale.

That the purchaser has offered, and stands ready to pay the costs in this behalf incurred, and to credit the net balance of its bid upon the indebtedness to it under the mortgage in the bill of complaint mentioned, fixed by decree of this Court, in payment of its said bid.

All of which is respectfully submitted.

Done this the 1st day of November 1955.

Alice J. Duck
Register

Read and ordered to lie over for 10 days. This the 1st day of Nov., 1955.

Hubert M. Hill
Judge

Filed 11-1-55
Alec J. Duck
Register

FILED

3-29 -50

ALICE J. DUCK, Clerk

Harry J. Witter
Solicitor for Complainant

RECORDED

FILED

MAY 8 1955

ALICE J. DUCK, Register

ALETHA HALL,
Complainant
VS.
LAWRENCE JOINER,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. IN EQUITY.
No. 2446

MOTION TO REVIVE:

Your Complainant, Aletha Hall, respectfully shows unto the Court as follows:

1. That on March 29, 1950, she, as Complainant, filed suit against Lawrence Joiner, as Respondent, seeking the establishment of a vendor's lien against certain property therein described.
2. That on March 2, 1950, she filed in the office of the Probate Judge of Baldwin County, Alabama, a lis pendens notice, which is of record therein in Judgment Book 4 page 391.
3. That the said suit is still pending in the Circuit Court of Baldwin County, Alabama, in equity.
4. That the Respondent, Lawrence Joiner, died intestate, on, to-wit: August 5, 1954, leaving surviving him the following: Myrtle Joiner, his widow, and the following children: Jessie Willard Joiner, age 36; Lawrence E. Joiner, age 34; William Shirley Joiner, age 32; James R. Joiner, age 25; Verlon Joiner, age 17; Catherine Joiner, age 16; William Earl Joiner, age 14; Robert Lamar Joiner, age 13; Kenneth Ray Joiner, age 10, Marlan Ann Joiner, age 7; Thomas Jerrill Joiner, age 5, and James Edward Joiner, age 4. That all of said heirs are residents of Baldwin County, Alabama, and of sound mind.

WHEREFORE, your Petitioner prays that an order be made and entered reviving the said suit and that she, as Complainant, be authorized to proceed with the prosecution of said suit and that the heirs of the said Lawrence Joiner be substituted and made parties Respondent thereto.

ALETHA HALL

COMPLAINANT

VS

MYRTLE JOINER, JESSE JOINER,
LAWRENCE E. JOINER, WILLIAM
SHIRLEY JOINER, JAMES R. JOINER,
VERLON JOINER, CATHERINE JOINER,
WILLIAM EARL JOINER, ROBERT
LAMAR JOINER, KENNETH RAY JOINER,
MARLAN ANN JOINER, THOMAS JERRILL,
JOINER, JAMES EDWARD JOINER,

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 2446

Comes now your Complainant, who having heretofore revived her Complaint against the above styled Respondents, and amends Section two and four of her Bill of Complaint to read as follows:

2.

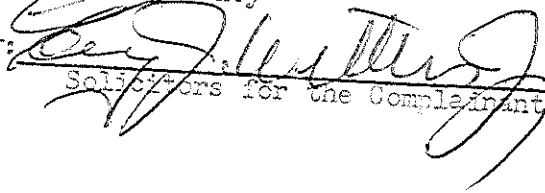
That on to-wit, May 24, 1949, Your Complainant furnished to the Respondent TWO HUNDRED TWENTY FIVE (\$225.00) DOLLARS for the purpose of buying, or as a part of the purchase price of the following described lands in Baldwin County, Alabama, to-wit:

All that certain lot or parcel of land situated in the Northeast quarter of the Southwest quarter of Section 17, Township 2 South, Range 3 East, lying on the North side of the public road from Dolive to Bay Minette and being in the form of a square; each side of which is 208.7 feet and the Southerly side of which is the Northern line of said public road; the Southwest corner of said lot is located 719 feet due West from the line running due North and South through the center of the Section and 1868 feet due North of the South line of said section, containing in all 1 acre of land.

4.

That Your Complainant has requested the Respondent to execute and deliver to her a mortgage upon the said property or to refund to her the money advanced by her to the Respondent for the purpose of purchasing the said property and that the Respondent has not executed to her a mortgage on the said lands nor has he or any one refunded to her the money advanced by her to the Respondent.

Wilters & Brantley

By: 
Solicitors for the Complainant

2446

FILED

June 29 1955

ALICE J. DICK, Register