

MATT KRUMP and HERBERT KRUMP,
Complainants,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2603

BOOK 205 PAGE 349

This cause having been submitted for final decree upon the pleadings, and the evidence offered and taken in open court, and the court understanding, and having considered the same, and heard the arguments of the solicitors for the parties hereto, is of the opinion that the Complainants, Matt Krump and Herbert Krump, are entitled to relief; in connection with which, the court finds that the decedent Nic Krump on January 18, 1950, at the time of the purported execution and delivery of the instruments purporting to be deeds of conveyance to the Respondent Mildred Casey, was of unsound mind and incapable of executing said instruments as valid deeds of conveyance, and that said Mildred Casey at the time knew of said incompetency, and that said instruments so purporting to be deeds of conveyance made by said Nic Krump to the Respondent Mildred Casey on said January 18, 1950 were wholly without consideration.

It is, therefore, ORDERED, ADJUDGED AND DECREED by the court:

1. That Complainants Matt Krump and Herbert Krump are the true and lawful owners of those certain lands in Baldwin County, Alabama, more particularly described as follows;

Lots 116, 115, 114, 126, 127, 131, 132, and that part of Lot 139 lying directly Northwest of Lots 131 and 132 in Oak River View; Lot 3 of Block 1 and also Parcel B; Lots 113, 128, 129, 130 and that part of Lot 139 lying directly northwest of Lots 129 and 130 in Oak River View, Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B Section 20 Township 9 South, Range 4 East.

North Half (N $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$), Section 29, Township 8 South, Range 4 East.

2. That the instrument purporting to be a deed of conveyance from the said Nic Krump to the said Mildred Casey dated January 18, 1950, and purporting to convey the following described lands in Baldwin County, Alabama, viz:

Lots 116, 115, 114, 126, 127, 131, 132, and that part of Lot 139 lying directly Northwest of Lots 131 and 132 in Oak River View; Lot 3 of Block 1 and also Parcel B; Lots 113, 128, 129, 130 and that part of Lot 139 lying directly northwest of Lots 129 and 130 in Oak River View, Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B Section 20 Township 9 South, Range 4 East.

BOOK 205 PAGE 350

which instrument is recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 148, pages 359, 361, was at the time of its purported execution and delivery on the 18th. day of January 1950, and is now null and void, and of or to said lands therein described, passed to the said Mildred Casey in consequence thereof; and that the instrument purporting to be a deed of conveyance from the deceased Nic Krump to the respondent Mildred Casey dated January 18, 1950 and purporting to convey the North Half ($N\frac{1}{2}$) of the Northeast quarter ($NE\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$), Section 29, Township 8 South, Range 4 East, together with the improvements thereon, situated in Baldwin County, Alabama, which document is of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 149, pages 500, 501, and in Deed Book 150 pages 29 and 30, was at the time of its purported execution and delivery on January 18, 1950, and is now null and void, and of no force and effect, and that no right, title or interest in and to said lands therein described, passed to the said Mildred Casey in consequence thereof; that said Mildred Casey has no right, title or interest in or to the lands hereinabove described in this decree; and that the two said instruments hereinabove described purporting to be deeds of conveyance dated January 18, 1950 from the said Nic Krump to the respondent Mildred Casey constitute clouds upon the title of complainants to said lands respectively which are hereby removed, and said instruments be and the same are hereby cancelled and held for naught as clouds respectively upon the complainants' title to said lands; that said instruments purporting to be deeds of conveyance having been offered in evidence and in the custody of the Register of this Court, she is hereby ordered to deliver the same to the Complainants herein, and to record a copy of this decree in the office of the Judge of Probate of Baldwin County, Alabama; and that said Register be and she is hereby ordered and directed to enter and note with ink upon the margins of the records in the office of the Judge of Probate Court where said purported deeds of conveyance are recorded, that the same have been cancelled and declared null and void by this decree, setting forth the date hereof.

3. That a writ of possession issue out of this court to remove and dispossess the respondent, Mildred Casey, from Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B Section 20 Township 9 South, Range 4 East, hereinabove mentioned and described and situated in Baldwin County, Alabama, and to deliver possession thereof to said Matt Krump and Herbert Krump, the Complainants herein.

4. That the respondent Mildred Casey be and she is hereby enjoined, restrained and forbidden from trespassing upon, or interfering with complainants' possession or their right to possession, of all lands hereinabove described in Paragraphs 1 and 2 hereof.

5. That the Complainants do have and recover of and from the respondent Mildred Casey all costs in this behalf expended, for all of which let execution issue.

ORDERED, ADJUDGED AND DECREED this the 9th day of October, 1952.

Telfair J. Mashburn Jr.
Judge

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in above stated cause, which said decree is on file and enrolled in my office.

WITNESS MY HAND AND SEAL THIS THE 17 day of Feb, 19 54



Alice J. Duck
Register of Circuit Court, in Equity

STATE OF ALABAMA, BALDWIN COUNTY

Filed 2-18-54 10 A.M

Recorded Reed book 205 page 349-51

MR. Stuart
Judge of Probate g

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10-9-52

Matt Krump

Herbert 45

25:

Mildred Casey

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205-349-51

R 2 ⁷⁵

Alice J. Duck

Bms

NIC KRUMP, A non compos mentis, IN THE CIRCUIT COURT OF
By: Matt Krump, as his next
friend,

Complainant,

BALDWIN COUNTY, ALABAMA

vs.

MILDRED CASEY,

Respondent.

IN EQUITY NO. _____

Nic Krump, complainant in the above entitled cause, having died on the 14th. day of February, 1951, and an order of court having been entered herein on the 4th. day of January, 1952, reviving the above entitled cause in the name of Matt Krump, Herbert Krump and John Chason as administrator cum testamento annexo of the estate of Nic Krump, deceased, as complainants, and substituting said parties as complainants therein, now come said complainants and amend the bill of complaint filed herein so that the same shall read as follows:

MATT KRUMP, HERBERT KRUMP and
JOHN CHASON, as Administrator
Cum Testamento Annexo of the
Estate of Nic Krump, deceased,

Complainants,

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

vs.

MILDRED CASEY,

Respondent.

IN EQUITY NO. _____

AMENDED BILL OF COMPLAINT

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA, SITTING IN EQUITY:

The bill of complaint exhibited by Matt Krump, Herbert Krump and John Chason, as Administrator Cum Testamento Annexo of the Estate of Nic Krump, deceased, complainants, against Mildred Casey, respondent, respectfully shows unto your Honor as follows:

1. Matt Krump and Herbert Krump are both over the age of twenty-one (21) years and residents of Cook County, Illinois; complainant John Chason who is administrator cum testamento

annexo of the Estate of Nic Krump, deceased, is over the age of twenty-one (21) years and a resident of Baldwin County, Alabama; the respondent Mildred Casey is over the age of twenty-one (21) years and a resident of Baldwin County, Alabama.

(2). Nic Krump, who brought the original bill of complaint herein by his next friend Matt Krump, died testate on the 14th. day of February, 1951, leaving a last will and testament, a copy of which is hereto attached, marked Exhibit "A" and made a part hereof; that said last will and testament was admitted to probate and record by the Probate Court of Baldwin County, Alabama, on the 11th day of June, 1951, and letters of administration were issued to your complainant John Chason on the 11th day of June, 1951.

(3). Said Nic Krump in and by his last will and testament devised all of his property of whatever nature both real, personal and mixed wherever located to your complainants Matt Krump and Herbert Krump.

(4). That on January 18, 1950, and just prior thereto the said Nic Krump was the owner of the following described lands situated in Baldwin County, Alabama:

Lots 116, 115, 114, 126, 127, 131¹³² and that part of Lot 139 lying directly Northwest of Lots 131 and 132 in Oak River View; Lot 3 of Block 1 and also Parcel B; Lots 113, 128, 129, 130 and that part of Lot 139 lying directly Northwest of Lots 129 and 130 in Oak River View, Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B Section 20, Township 9 South, Range 4 East.

That on January 18, 1950, the said Nic Krump executed a deed to the said Mildred Casey, the above named respondent, which deed purported to convey the above described lands; that said deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 148, pages 359-361.

(5). That on January 18, 1950, and just prior thereto, Nic Krump was the owner of the following described land situated in Baldwin County, Alabama:

The North half of the Northeast Quarter of the Northeast Quarter of Section 29, Township 8 South, Range 4 East, together with improvements situated thereon.

That on January 18, 1950, the said Nic Krump executed a deed to the said Mildred Casey, the above named Respondent, which deed purported to convey the above described lands; that said deed was filed for record in the office of the Judge of Probate of Baldwin County, Alabama, on March 7, 1950, and was recorded therein in Deed Book 149 pages 500-501.

(6). That on January 18, 1950, the date of the purported execution of said deeds, Nic Krump was a man 75 years of age, was very feeble, physically and mentally and under treatment by one or more physicians; that his mental condition was such on that date that he was not capable of understanding the transaction in which he executed such deeds to the said respondent; that a confidential relationship existed between the said Mildred Casey and Nic Krump and because of his age, mental and physical weakness, the said Nic Krump was under the influence and dominion of the respondent, Mildred Casey and that such deeds were executed to the said Mildred Casey by the said Nic Krump as a result of undue influence exerted by the said respondent on him and while he was mentally incapable of executing such deeds.

(7). That the said complainants do not know whether the said Mildred Casey paid any consideration for the execution and delivery of such deeds but complainants hereby offer to do equity and to repay the said Mildred Casey any sum of money which she did actually pay the said Nic Krump for said deeds, together with interest thereon.

PRAYER FOR RELIEF

The premises considered your complainants pray that on a final hearing of this cause that your Honor will order and decree the above mentioned deeds from Nic Krump to the said Mildred Casey to be null and void and of no force and effect and that the said Mildred Casey has no right, title or interest in and to the above described land; that your Honor will also order and decree that a copy of said decree be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and that the Register of

this Court be directed to note on the margin of the record where the same are recorded that such deeds have been declared null and void by a decree in equity, setting forth the date of said decree; that the costs of recording such decree be taxed as a part of the costs of this proceeding. Your complainants pray for such other, further, different and general relief to which they may be entitled and as in duty bound they will ever pray.

CHASON & STONE

By

JOHNSTON, MCRAIL & JOHNSTON

By

Solicitors for Complainants

EXHIBIT "A"

LAST WILL AND TESTAMENT

I, Nic Krump of Foley, County of Baldwin, State of Alabama, being of sound mind and memory, do make, publish and declare this my last Will and Testament, hereby revoking all former Wills, bequests and devises by me made.

I give, devise and bequeath, after the payment of all my just debts and funeral expense, all my property of whatever nature, both real and personal or mixed, wherever located, to my brothers, Matt Krump of 7959 Prairie Avenue, Chicago, Illinois and Herbert Krump of 9019 South Laflin Street, Chicago, Illinois, share and share alike.

I do hereby constitute and appoint the said Matt Krump and Herbert Krump, joint executors of my will and direct that they serve WITHOUT BOND as Executors of this my last Will and Testament.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal this 21st day of July, in the year of our Lord, One Thousand Nine Hundred and Thirty Eight.

/S/ Nic Krump (SEAL)

This instrument was, on the day of the date thereof, signed, sealed, published and declared by the said testator Nic Krump to be his Last Will and Testament in our presence, who, at his request, having subscribed our names as attesting witnesses, in his presence, and in the presence of each other.

NAMES OF WITNESSES

RESIDING AT

/S/ Frank W. Carter _ _ _ _ _

Eagle River, Wisconsin _ _ _

/S/ Alida Carter _ _ _ _ _

Eagle River, Wisconsin _ _ _

MATT KRUMP and HERBERT KRUMP, as
Administrators Cum Testamento
Annexo of the Estate of Nic Krump,
Deceased,

Complainants,
VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2603

AMENDED DEMURRER

Now comes the respondent and amends the demurrer heretofore filed by her to the Bill of Complaint as last amended, so that, as amended, the said demurrer will read as follows:

I.

Now comes the respondent and for demurrer to the amended Bill of Complaint filed in this cause, says:

1. There is no equity in the amended Bill of Complaint.
2. Complainants do not offer to do equity.
3. Complainants do not allege that they are in possession of the property described in the deeds which they are seeking to have cancelled.
4. For aught that appears in the amended Bill of Complaint, the complainants have an adequate remedy at law.
5. It affirmatively appears from the amended Bill of Complaint that the complainants have an adequate remedy at law.
6. For aught that appears in the amended Bill of Complaint, Nic Krump did not own the lands described in the deeds which the complainants are seeking to have cancelled, or any part thereof, at the time of his death.
7. It affirmatively appears from the amended Bill of Complaint that Nic Krump did not own the lands described in the deeds, which the complainants are seeking to have cancelled, at the time of his death.
8. There is a misjoinder of parties complainant.
9. There is a misjoinder of parties complainant in that the amended Bill of Complaint does not allege any facts which en-

title John Chason, as Administrator Cum Testamento Annexo of the Estate of Nic Krump, Deceased, to maintain this suit.

10. No facts are alleged to show that the consideration for the deeds which complainants are seeking to have cancelled was inadequate.

11. No facts are alleged to show any inadequacy or want of consideration for the deeds which the complainants are seeking to have cancelled.

12. No facts are alleged to show a total incapacity on the part of Nic Krump to contract at the time the deeds, which complainants are seeking to have cancelled, were made.

13. No facts are alleged to show that the respondent, or anyone else acting in her behalf, took any unfair advantage of Nic Krump in obtaining the execution and delivery of the deeds which the complainants are seeking to have cancelled.

14. The facts alleged, if true, are not sufficient to warrant the cancellation of the deeds described in the amended Bill of Complaint.

15. The allegation "that a confidential relationship existed between the said Mildred Casey and Nic Krump" is a conclusion of the pleader and no facts are alleged to show that any confidential relationship existed.

II.

Now comes the respondent and demurs to the allegations of Paragraph 4 of the amended Bill of Complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

III.

Now comes the respondent and demurs to the allegations of Paragraph 5 of the amended Bill of Complaint filed in this cause

and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

IV.

Now comes the respondent and demurs to the allegations of Paragraph 6 of the amended Bill of Complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

V.

Now comes the respondent and demurs to the allegations of Paragraph 7 of the amended Bill of Complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

VI.

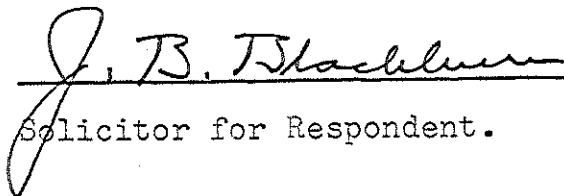
Now comes the respondent and demurs to that aspect of the amended Bill of Complaint which seeks to have the deeds referred to therein declared null and void (being subdivision (a) of the Prayer for Relief) and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

VII.

Now comes the respondent and demurs to that aspect of the amended Bill of Complaint which seeks a decree holding that the respondent has no right, title or interest in the lands involved in this suit (being subdivision (b) of the Prayer for Relief) and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.

VIII.

Now comes the respondent and demurs to that aspect of the amended Bill of Complaint which seeks to have the deeds referred to in the amended Bill of Complaint cancelled as clouds upon complainants' title (being subdivision (c) of the Prayer for Relief) and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended Bill of Complaint as a whole, just as if the said grounds were specifically rewritten here.


Solicitor for Respondent.

MATT KRUMP and HERBERT KRUMP,)
 Complainants,) IN THE CIRCUIT COURT OF
 VS.) BALDWIN COUNTY, ALABAMA
 MILDRED CASEY,) IN EQUITY NO. 2603
 Respondent.)

PETITION

Now comes the respondent, by her solicitor, and respectfully represents that she desires to remove from the court file in this case the original deed which has been offered in evidence in this cause, from Nic Krump to Mildred Casey, which said deed is dated January 5, 1949 and describes property in Section 29, Township 8 South, Range 4 East in Baldwin County, Alabama, and substitute a copy therefor in order that the said original deed can be kept and preserved by her.

WHEREFORE, respondent prays that the Court will enter a proper order or decree authorizing removal of the said original deed from the court file and substitution of the copy therefor.

MILDRED CASEY

By J. B. Blackburn
 As her Solicitor.

STATE OF ALABAMA)
 *
 BALDWIN COUNTY)

The foregoing petition having been presented to me on this date, it is ORDERED, ADJUDGED AND DECREED by the Court that the respondent shall and she is hereby authorized and empowered to remove from the court file in this suit the original deed that has been introduced as evidence in this cause, from Nic Krump to Mildred Casey, which said deed is dated January 5, 1949 and describes property in Section 29, Township 8 South, Range 4 East, Baldwin County, Alabama, and substitute therefor a copy thereof.

ORDERED, ADJUDGED AND DECREED this _____ day of November, 1952.

Judge.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 53-54

To the Register of the Circuit Court,
Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court In Equity
of said county, in a certain cause lately pending in said Court between
Mildred Casey, Appellant,
and

Matt Krump:
Herbert Krump, Appellee S,
wherein by said Court it was considered adversely to said appellant—, were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant—:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, adjudged, and de-
creed by our Supreme Court, on the 21st day of January, 1954, that said
Decree of said Circuit Court be in all things
affirmed, and that it was further considered, ordered, adjudged, and decreed that the appellant—,
and Mildred Casey, and J. B. Blackburn, surety on the appeal bond, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution
issue.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, at the Judicial Department

Building, this the 21st day of

January 19 54

J. Render Thomas

Clerk of the Supreme Court of Alabama.

No. 2603

THE SUPREME COURT OF ALABAMA

October Term, 1953-54

1st Div., No. 576

Mildred Casey

Appellant,

vs.

Matt Krump:

Herbert Krump,

Appellee.S

From Baldwin Circuit Court.
In Equity

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

Baldwin

County.

} Filed

this 23rd day of January 1954

Archie J. White
Register

Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. 2003

MATT KRUPP AND HERBERT KRUPP

Complainant.

vs.

MILDRED CASBY

Respondent.

I, Alice M. Beck Register of the Circuit Court In Equity,

Baldwin County, Alabama, hereby certify that in the cause of

MATT KRUPP AND HERBERT KRUPP

Complainant,

vs.

MILDRED CASBY

Respondent,

which was tried and determined in this Court on the 9th day of

October

1952,

in which there was a decree in favor of the

Complainants.

On the 8th day of April 1953, the Respondent

took an appeal to the

Supreme Court of Alabama, to be holden of and for said State.

I further certify that J. B. Blackburn

filed security for cost of appeal, to the Supreme Court Court,

on the 8th day of April 1953, and that J. B. Blackburn

are sureties on the appeal bond.

I further certify that notice of said appeal was on the 8th

day of April, 1953, served on Chason A. Stone

as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 11th day
of October, 1953

Register of the Circuit Court In Equity of

Baldwin

County, Alabama.

STATE OF ALABAMA

BALDWIN COUNTY

)
)
)

IN THE CIRCUIT COURT - IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Mildred Casey 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 Nic Krump, a non compos mentis, by Matt Krump as his next friend, as Complainant, against Mildred Casey as Respondent.

Witness my hand this 31st day of January 1951.
1951.

Herbert A. Rucker
Register.

NIC KRUMP, a non compos mentis,	¶	
By: MATT KRUMP, as his next	¶	
friend,	¶	IN THE CIRCUIT COURT OF
	¶	
Complainant,	¶	BALDWIN COUNTY, ALABAMA
	¶	
vs.	¶	IN EQUITY.
	¶	
MILDRED CASEY,	¶	
	¶	
Respondent.	¶	

Comes your Complainant, Nic Krump, a non compos mentis, by Matt Krump as his next friend, and files this his Bill of Complaint against Mildred Casey, and shows unto this court and unto your Honor as follows:

FIRST:

That Nic Krump is a non compos mentis over the age of twenty-one years and a resident citizen of Baldwin County, Alabama, residing near Foley, Alabama; that Mildred Casey is over the age of twenty-one years, her place of residence being unknown to your Complainant; that the said Mildred Casey lives in Foley, Alabama, a part of the time, in Mobile, Alabama, a part of the time and is a non-resident a part of the time, her exact place of residence being unknown at this time to your Complainant.

SECOND:

That Matt Krump was issued Letters of Guardianship by the Probate Court of Baldwin County, Alabama, as guardian of Nic Krump a non compos mentis, on the 4th day of March, 1950, but by a decree of this court rendered on this day such Letters were declared to be void and of no force and effect so the said Nic Krump has no legal guardian at this time.

THIRD:

That on January 18, 1950, and just prior thereto the said Nic Krump was the owner of the following described lands situated in Baldwin County, Alabama:

Lots 116, 115, 114, 126, 127, 131, and that part of Lot 139 lying directly Northwest of Lots 131 and 132 in Oak River View; Lot 3 of Block 1 and also Parcel B; Lots 113, 128, 129, 130 and that part of Lot 139 lying directly Northwest of Lots 129 and 130 in Oak River View; Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B, Section 20, Township 9 South, Range 4 East.

That on January 18, 1950, the said Nic Krump executed a deed to the said Mildred Casey, the above named Respondent, which deed purported to convey the above described lands; that said deed is recorded

in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 148, pages 359-361.

FOURTH:

That on January 18, 1950, and just prior thereto, Nic Krump was the owner of the following described land situated in Baldwin County, Alabama:

The North half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Twenty-nine (29), Township Eight (8) South, Range Four (4) East, together with improvements situated thereon.

That on January 18, 1950, the said Nic Krump executed a deed to the said Mildred Casey, the above named Respondent, which deed purported to convey the above described lands; that said deed was filed for record in the Office of the Judge of Probate of Baldwin County, Alabama, on March 7, 1950, and was recorded therein, in Deed Book 149, pages 500-501.

FIFTH:

That on January 18, 1950, the date of the purported execution of said deeds, Nic Krump was a man 75 years of age, was very feeble, physically and mentally and under treatment by one or more physicians; that his mental condition was such on that date that he was not capable of understanding the transaction in which he executed such deeds to the said Respondent; that a confidential relationship existed between the said Mildred Casey and Nic Krump and because of his age, mental and physical weakness, the said Nic Krump was under the influence and dominion of the Respondent, Mildred Casey and that such deeds were executed to the said Mildred Casey by the said Nic Krump as a result of undue influence exerted by the said Respondent on him and while he was mentally incapable of executing such deeds.

SIXTH:

That the said Complainant does not know whether the said Mildred Casey paid any consideration for the execution and delivery of such deeds but Complainant hereby offers to do equity and to repay the said Mildred Casey any sum of money which she did actually pay the said Nic Krump for said deeds, together with interest thereon.

PRAYER FOR PROCESS

Premises considered, Complainant prays that your Honor will cause the usual Writ or process to issue to the said Mildred Casey requiring her to appear, plead, answer or demur to the Bill of Complaint within the period of time and under the penalties prescribed by the Statutes and the rules of this Court.

PRAYER FOR RELIEF

The premises considered your Complainant prays that on a final hearing of this cause that your Honor will order and decree the above mentioned deeds from Nic Krump to the said Mildred Casey to be null and void and of no force and effect and that the said Mildred Casey has no right, title or interest in and to the above described land; that your Honor will also order and decree that a copy of said decree be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and that the Register of this Court be directed to note on the margin of the record where the same are recorded that such deeds have been declared null and void by a decree in equity, setting forth the date of said decree; that the costs of recording such decree be taxed as a part of the costs of this proceeding. Your Complainant prays for such other, further, different and general relief to which he may be entitled and as in duty bound he will ever pray.

CHASON & STONE

By: 

Solicitors for Complainant.

NIC KRUMP,)
A Non Compos Mentis,)
By MATT KRUMP, as his next friend,)
Complainant,) IN THE CIRCUIT COURT OF
VS.) BALDWIN COUNTY, ALABAMA
MILDRED CASEY,) IN EQUITY. NO. 2603
Respondent.)

MOTION TO AMEND DEMURRER

Now comes the respondent, by her solicitor, and shows unto the Court that the general demurrer heretofore filed by her in this cause was filed after the death of the complainant and before the time for pleading expired in this cause, simply as an appearance until such time as the cause was revived. The said cause has now been revived and respondent desired to amend the said demurrer by adding additional grounds thereto.

WHEREFORE, respondent moves the Court to make and enter a proper order or decree authorizing her to amend the said demurrer.

J. B. Blaschke
Solicitor for Respondent.

MOTION TO AMEND

RECORDED

NIC KRUMP,
A Non Compos Mentis,
By MATT KRUMP, as his next friend
Complainant,

VS.

MILDRED CASEY,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2603.

FILED

JAN 11 1952

ALICE J. DUCK, Register

Copy made to opposing attorney by Blackman 1-10-52

MATT KRUMP and
HERBERT KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2603

SECURITY FOR COSTS OF APPEAL

The respondent, Mildred Casey, having appealed to the Supreme Court of the State of Alabama from the decree of the Circuit Court of Baldwin County, Alabama, in Equity, rendered in this cause on October 9, 1952, I hereby acknowledge myself security for the costs of the said appeal.

J. B. Blaschke
Solicitor for respondent.

Taken and approved on this the
8th day of April, 1953.

Alvin L. Hensley
Register.

SECURITY FOR COSTS OF APPEAL

MATT KRUMP and HERBERT KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2603

FILED

4-8-53

ALICE J. DUCK, Register

MATT KRUMP, HERBERT KRUMP and
 JOHN CHASON, as Administrator
 Cum Testamento Annexo of the
 Estate of Nic Krump, Deceased,
 VS. Complainants,
 MILDRED CASEY,
 Respondent.

IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA
 IN EQUITY

DEMURRER

I.

Now comes the respondent and for demurrer to the amended bill of complaint filed in this cause, says:

1. There is no equity in the amended bill of complaint.
2. Complainants do not offer to do equity.
3. Complainants do not allege that they are in possession of the property described in the deeds which they are seeking to have cancelled.
4. For aught that appears in the amended bill of complaint, the complainants have an adequate remedy at law.
5. It affirmatively appears from the amended bill of complaint that the complainants have an adequate remedy at law.
6. For aught that appears in the amended bill of complaint, Nic Krump did not own the lands described in the deeds which the complainants are seeking to have cancelled, or any part thereof, at the time of his death.
7. It affirmatively appears from the amended bill of complaint that Nic Krump did not own the lands described in the deeds, which the complainants are seeking to have cancelled, at the time of his death.
8. There is a misjoinder of parties complainant.
9. There is a misjoinder of parties complainant in that the amended bill of complaint does not allege any facts which entitle John Chason, as Administrator Cum Testamento Annexo of the Estate of Nic Krump, Deceased, to maintain this suit.

10. No facts are alleged to show that the consideration for the deeds which complainants are seeking to have cancelled was inadequate.

11. No facts are alleged to show any inadequacy or want of consideration for the deeds which the complainants are seeking to have cancelled.

12. No facts are alleged to show a total incapacity on the part of Nic Krump to contract at the time the deeds, which complainants are seeking to have cancelled, were made.

13. No facts are alleged to show that the respondent, or anyone else acting in her behalf, took any unfair advantage of the complainant in obtaining the execution and delivery of the deeds which the complainants are seeking to have cancelled.

14. The facts alleged, if true, are not sufficient to warrant the cancellation of the deeds described in the amended bill of complaint.

15. The allegation "that a confidential relationship existed between the said Mildred Casey and Nic Krump" is a conclusion of the pleader and no facts are alleged to show that any confidential relationship existed.

II.

Now comes the respondent and demurs to the allegations of Paragraph 4 of the amended bill of complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if the said grounds were specifically rewritten here.

III.

Now comes the respondent and demurs to the allegations of Paragraph 5 of the amended bill of complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove sep-


arately and severally assigned to the amended bill of complaint as a whole, just as if the said grounds were specifically rewritten here.

IV.

Now comes the respondent and demurs to the allegations of Paragraph 6 of the amended bill of complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if the said grounds were specifically rewritten here.

V.

Now comes the respondent and demurs to the allegations of Paragraph 7 of the amended bill of complaint filed in this cause and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 15, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if the said grounds were specifically rewritten here.


Solicitor for Respondent.

MATT KRUMP and HERBERT KRUMP,
Complainants,

vs.

MILDRED CASEY,

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Respondent.

IN EQUITY

NO. _____

MOTION

Come the complainants in the above entitled cause and move the Court to amend the bill of complaint by striking without prejudice John Chason as administrator cum testamento annexo of the Estate of Nic Krump, deceased, as a party complainant herein.

Sherson & Stone
By John Chason
Johnston McLeod Hunter
Solicitors for Complainants

Motion
No. 2603

RECORDED

Matt / Krump and
Herbert / Krump
Complainants

VS

Mildred Casey
Respondent

In the Circuit Court
of Baldwin County,
Alabama - In Equity

FILED

MAY 1 1952

ALICE J. DUCK, Register

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2603

Now comes the respondent and demurs to the Bill of Complaint as last amended (the amended complaint filed on October 8, 1952) and as grounds therefor sets down and assigns, separately and severally, the following:

1. There is no equity in the amended Bill of Complaint.
2. Complainants do not offer to do equity.
3. For aught that appears in the amended Bill of Complaint, the complainants have an adequate remedy at law.
4. It affirmatively appears from the Bill of Complaint, as last amended, that there has been a complete change of parties in this cause.
5. It affirmatively appears that this suit was originally filed in the name of Nic Krump, a non compos mentis, by Matt Krump, as his next friend; that it was then amended so that the complainants were Matt Krump, Herbert Krump and John Chason, as administrator cum testamento annexo of the Estate of Nic Krump, Deceased, and that it was then subsequently amended by striking John Chason, as administrator cum testamento annexo of the Estate of Nic Krump, Deceased, leaving Matt Krump and Herbert Krump as complainants, which amendments thereby effected a complete change of parties.

Now comes the respondent and demurs to Paragraph 5 of the amended Bill of Complaint filed in this cause on October 8, 1952, and as grounds therefor sets down and assigns, separately and severally, the following:

1. There is no equity in the amended Bill of Complaint.

2. Complainants do not offer to do equity.

3. For aught that appears in the amended Bill of Complaint, the complainants have an adequate remedy at law.

4. It affirmatively appears from the Bill of Complaint, as last amended, that there has been a complete change of parties in this cause.

5. It affirmatively appears that this suit was originally filed in the name of Nic Krump, a non compos mentis, by Matt Krump, as his next friend; that it was then amended so that the complainants were Matt Krump, Herbert Krump and John Chason, as administrator cum testamento annexo of the Estate of Nic Krump, Deceased, and that it was then subsequently amended by striking John Chason, as administrator cum testamento annexo of the Estate of Nic Krump, Deceased, leaving Matt Krump and Herbert Krump as complainants, which amendments thereby effected a complete change of parties.

J. B. Blashum
Solicitor for Respondent.

No 2603

Order

Matt Trump and
Herbert Trump,
Complainants

VS
Melroe Casey
Respondent

In the Circuit Court
of Baldwin County,
Alabama. In Equity

FILED

MAY 1 1952

ALICE J. DUCK, Register

NIC KRUMP, a non compos mentis
by Matt Krump, as his next friend,

Complainant,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BAWDWIN COUNTY, ALABAMA

IN EQUITY NO. 2603

Come Matt Krump and Herbert Krump, both of whom are over the age of twenty-one (21) years and are residents of Cook County, Illinois, and John Chason, as administrator cum testamento annexo of the Estate of Nic Krump, deceased, and show unto the court that Nic Krump died on the 17th day of February, 1951, leaving a last will and testament which was admitted to probate by the Probate Court of Baldwin County, Alabama, on the 11th day of June, 1951; that in and by the said last will and testament of said Nic Krump, deceased, your petitioners, Matt Krump and Herbert Krump were devised the lands constituting the subject matter of the above styled suit and which are described in the bill of complaint filed therein, and petitioners further show that letters of administration upon the estate of Nic Krump, deceased, were issued to the undersigned John Chason as administrator cum testamento annexo by the Probate Court of Baldwin County, Alabama, on the 11 day of June, 1951.

WHEREFORE, petitioners pray that an order be made by your Honor reviving the above entitled suit in their name and that they be substituted as parties complainant therein in lieu of the present named complainant.

John Chason & Stone
By John Chason
John Chason & Stone
Solicitors for Matt Krump and Herbert Krump, as devisees under the last will and testament of Nic Krump, deceased, and John Chason as administrator cum testamento annexo of the estate of Nic Krump, deceased.

STATE OF ALABAMA
COUNTY OF BALDWIN

Before me the undersigned Notary Public in and for said State and County, personally appeared John Chason, who, being by me duly sworn on oath, deposes and says that he is one of the solicitors from the complainant in the above entitled cause and also solicitor for Matt Krump and Herbert Krump who are devisees under the last will and testament of Nic Krump, deceased; and affiant further states that the facts stated in the foregoing petition are true.

Subscribed and sworn to before me
on this 2nd day of January, 1952.

Alice L. Miller
NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA

LAW OFFICES OF
D. R. COLEY, JR.
302-6 FIRST FEDERAL SAVINGS BUILDING

106 ST. JOSEPH STREET
MOBILE, ALABAMA

SYDNEY S. PFLEGER
CHRIS C. DE LANEY

October 12, 1953

Honorable Alice Duck, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama

Dear Mrs. Duck:

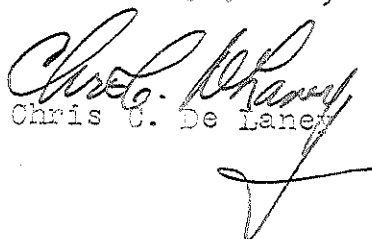
As you know, we represent Mrs. Mildred
Casey in all of her cases with the Krump family.

Since Mr. Blackman is no longer in-
volved in the Supreme Court case, we want to make sure
that everything is done which should be done to bring
the case up before the Supreme Court.

It will be appreciated if you will check
your records, and, if all of the proper notices have
not been sent, please issue them at your earliest
convenience.

Thanking you for your courtesy in the
matter, I am

Very truly yours,


Chris C. De Laney

CD/mal

MATT KRUMP and
HERBERT KRUMP,

VS.

MILDRED CASEY,

Complainants,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2603

SECURITY FOR COSTS OF APPEAL

The respondent, Mildred Casey, having appealed to the Supreme Court of the State of Alabama from the decree of the Circuit Court of Baldwin County, Alabama, in Equity, rendered in this cause on October 9, 1952, I hereby acknowledge myself security for the costs of the said appeal.

J. B. Blachum
Solicitor for respondent.

Taken and approved on this the
8th day of April, 1953.

Wright Leuck
Register.

MATT KRUMP and HERBERT KRUMP,

Complainants,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2603.

A petition by Mildred Casey as Respondent in the above styled cause filed November 12, 1952, to remove a deed referred to therein from the file in said cause and substitute a copy therefor having been duly presented to me and an objection by the Complainants to the removal of such deed on the ground that such deed is needed as evidence in another case now pending in this court and that a copy of the same would not truly reflect the original of such deed having been also presented to me and it appearing to the Court that in the interest of justice, such petition should be denied insofar as the Respondent seeks to substitute a copy for the original permanently, it is therefore, ORDERED, ADJUDGED AND DECREED by the court that the petition filed by the Respondent in said cause be, and the same hereby is denied.

It is further ORDERED, ADJUDGED AND DECREED by the Court that should the Solicitor for the Respondent, J. B. Blackburn, desire to remove such deed from the file in the cause for a period of time not exceeding one (1) week for any lawful purpose, he may do so, provided the said J. B. Blackburn is personally responsible for such instrument while the same is out of the possession of this court and that he shall return such original deed to this court within seven (7) days from the time he removes the same.

It is further ORDERED, ADJUDGED AND DECREED by the Court that if the said J. B. Blackburn desires to remove such instrument he shall give the Court Reporter, who now has possession of said deed, a proper receipt for the same.

Done this 12th day of November, 1952.

Telfair J. Mashburn, Jr.
Telfair J. Mashburn, Jr., Judge of
the Circuit Court of Baldwin
County, Alabama, In Equity.

Order

M

Matt Krump &
Herbert Krump
Camp

IS
Michael Casey
Resp.

Filed 11-12-62
Arling-Henck
Register

MATT KRUMP and HERBERT
KRUMP,

Complainants,
vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2603.

This matter coming on to be heard on the Amended Demurrer filed by the Respondent in said cause on July 8, 1952, to the Amended Bill of Complaint filed by the Complainants in said cause on May 8, 1952, and the Court having considered the same is of the opinion that such amended demurrer should be overruled;

It is therefore, ORDERED, ADJUDGED AND DECREED by the Court that the Amended Demurrer filed by the Respondent in said cause on July 8, 1952, to the Amended Bill of Complaint filed by the Complainants in said cause on May 8, 1952, be, and the same hereby is overruled.

It is further ORDERED, ADJUDGED AND DECREED by the Court that such Respondent shall have twenty (20) days from the date hereof in which to plead to or answer such Amended Bill of Complaint.

Done at Bay Minette, Alabama, this 8th day of July, 1952.

Julius A. Maschbauer
Judge.

M

DECREE OVERRULING AMENDED
DEMURRER

MATT KRUMP and HERBERT KRUMP,

Complainants,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2603.

FILED

JUL 8 1952

ALICE J. DUCK, Register

MATT KRUMP and
HERBERT KRUMP, Complainants,)
vs)
MILDRED CASEY,)
Respondent.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.
NO. 2603.

Come now D. R. Coley, Jr. and Chris C. De Laney,
and appear for the Respondent in the above entitled cause
and reserve the right to plead, answer or demur further.

D. R. Coley, Jr.
Chris C. De Laney
SOLICITORS FOR RESPONDENT

MATT KRUMP and HERBERT KRUMP,
Complainants,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2603.

Come Matt Krump and Hebert Krump, the Complainants in the above styled cause, acting by and through John Chason, as one of their Solicitors of Record, and object to the granting of the petition filed by the Respondent in said cause on November 12, 1952, in and by which petition the Respondent seeks to substitute a copy for the original deed referred to therein, and as grounds for said objection, says:

1. That the Deed referred to appears to have been altered since its execution and a suit has been filed in this court to set aside such deed and it is necessary that such original deed remain on file in the court in order that it may be examined by expert witnesses and may be used in the trial of said cause.

2. That a copy of such Deed would not show the deed as the same now appears in the records and it would be impossible to substitute a true and correct copy of such deed which would reflect the deed as it now appears.


Solicitors for Complainants.

Objection to Petition

Matt Krump
Herbert Krump
Comps

vs
Melvin Casey
Resp

Filed 11-12-52
Circuit Clerk
Register

Return to Comptroller

NIC KRUMP, a non compos mentis
by Matt Krump, as his next friend,

Complainant,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2603

ORDER OF REVIVAL

It appearing to the court that Nic Krump died on the 17th day of February, 1951, leaving a last will and testament which has been duly admitted to probate by the Probate Court of Baldwin County, Alabama, by which last will and testament the lands constituting the subject matter in the above entitled suit and described in the bill of complaint, were devised to Matt Krump and Herbert Krump, residents of Cook County, Illinois, both of whom are over the age of twenty-one (21) years; and it further appearing to the court that letters of administration upon the estate of the said Nic Krump, deceased, were issued to John Chason as administrator cum testamento annexo by the Probate Court of Baldwin County, Alabama, on the 11 day of June, 1951;

It is therefore ORDERED, ADJUDGED and DECREED by the court upon petition of said parties that said suit be and the same is hereby revived in the names of the said Matt Krump and Herbert Krump and John Chason as administrator cum testamento annexo of the estate of Nic Krump, deceased, as complainants therein, and that said parties be and they are hereby substituted as such parties complainant in lieu of the present named complainant.

ORDERED, ADJUDGED and DECREED this the 4th day of January, 1952.

Jeffrey S. Maschbauer Jr.
JUDGE

NIC KRUMP, a Non Compos Mentis,
By Matt Krump, as his next
friend,

Complainant,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 2603

DEMURRER.

Now comes the Respondent and for demurrer to the Bill
of Complainant says:

1. There is no equity in the Bill of Complaint.

J. B. Blakely
Solicitor for Respondent.

72 2603
DEMURRER.

RECORDED

NIC KRUMP, a Non Compos Mentis,
By Matt Krump, as his next
friend,

Complainant,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2603

FILED

MAR 2 1951

ALICE J. DUCK, Clerk

JAN 21 1954

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1953-54

1 Div. 576

Mildred Casey,

v.

Matt Krump et al.,

Appeal from Baldwin Circuit Court,
In Equity.

MERRILL, JUSTICE.

Nic Krump owned considerable land in Baldwin County during his lifetime and at his death left an estate appraised at \$23,750.00. His wife contracted pneumonia in 1934 and the appellant and respondent Mildred Casey, then 18 years of age, came into the Krump home to nurse Mrs. Krump. Mrs. Krump recovered from pneumonia but she became mentally ill and was sent to a hospital in 1936, where she remained until her death in 1940. Mrs. Casey continued to live in the Krump household and she testified that she "drove the car, cooked and did anything that was needed to be done."

2.

In 1938 she left the Krump home and lived in Florida and California, and while in California married one Robert Casey, was divorced by him and she returned to Baldwin County in 1945. She resumed her friendship with Mr. Krump and in 1946 he gave her a deed to some property and gave her \$1,000.00 to pay on an automobile. He deeded another tract to her in 1947 and bought a home for her for which he paid \$4,100.00, and they saw each other regularly, both prior and subsequent to the execution of the two deeds involved in this action, that date being the 18th day of January, 1950. On the morning of that day, Mr. Krump, 75 years of age, was examined by Dr. W. C. Holmes, who found him to be suffering from acute hematuria hypertension chronic blood pressure, prostatitis, chronic and senile dementia. After the doctor had left, Mrs. Casey took Mr. Krump in the Packard automobile which he had given her on Christmas day of 1949 and they drove to a real estate agent's office in Foley, who was furnishing a desk in his office for the use of Mrs. Casey, and Mr. Krump executed one of the deeds here involved and left instructions for the other deed to be prepared conveying more of his lands to Mrs. Casey. He and Mrs. Casey returned in about two hours and he signed the second deed.

Dr. Holmes continued to see Mr. Krump every day and on January 22, 1950, he put him in Holmes' Hospital at Foley. He stayed in this hospital until January 29th, when Mrs. Casey and Mr. R. M. Smith of Mobile carried him to the Mobile Infirmary. Mrs. Casey had a cot placed in his room and stayed at the hospital with him until February 28th when Mr. Matt Krump and Mr. Herbert Krump, brothers of Nic Krump, requested that she leave.

3.

The bill was originally filed under the style of "Nic Krump, a non compos mentis, by Matt Krump as next friend, complainant, v. Mildred Casey, respondent," to set aside the two deeds which were executed on January 18, 1950. Mr. Nic Krump died on February 14, 1951, and by his last will and testament, left all of his property to his two brothers, Matt Krump and Herbert Krump, and the suit was revived in their names. The demurrer to the bill was overruled, the answer filed denying the incapacity of Nic Krump to execute the deeds and the testimony taken ore tenus before the court. The decree granted the complainants the relief prayed for and Mrs. Casey has appealed.

Appellant argues two assignments of error. The first is that the allegation as to Nic Krump's insanity was insufficient and the demurrer should have been sustained. The allegation in the bill as amended is:

"6. At the time of the signing and delivery of said documents mentioned in Paragraph 5 of this bill, on the 18th day of January, 1950, Nic Krump was of unsound mind and incapable of executing said documents as valid deeds of conveyance to said lands, all of which was well known to the respondent at the time. * * *."

In Cox v. Parker, 212 Ala. 35, 101 So. 657, a bill to cancel a deed of gift, the allegation "that at the time of the signature by her, she had become greatly weakened mentally and physically, and did not know or understand the nature or the consequences of the act she was about to perform", was held "sufficient to raise the issue of the soundness of mind of the donor."

4.

and in Holden v. Holden, 235 Ala. 436, 179 So. 523, where the allegation was "and complainants say that the said deed was null and void and of no effect for on the date of the execution of said deed the said C. W. Holden was a non compos mentis and incapable of making a contract," the court held that allegation to be the equivalent of the allegation that the grantor "was insane and did not have sufficient mind to understand the business he was engaged in when transacting the same." The demurrer was properly overruled.

The other assignment of error is that the evidence was not sufficient to establish that Nic Krump was of unsound mind and incapable of executing the instruments as valid deeds of conveyance.

The rule is stated as follows in Hall v. Britton et al., 216 Ala. 265, 113 So. 238, "In order to render a deed void because of the mental incapacity of the grantor--and the principle is the same for any other signatory--the test is 'not merely that the grantor's mental powers were impaired, but whether he had sufficient capacity to understand in a reasonable manner the nature and effect of the act which he was doing.' 18 Corp. Jur. 218, § 131; White g. Farley, 81 Ala. 563, 8 So. 215; Stanfill v. Johnson, 159 Ala. 546, 49 So. 223.", and is followed in Spence v. Spence, 239 Ala. 480, 195 So. 717.

The evidence on the subject of Mr. Krump's sanity at or near the time of the execution of the deeds was in sharp conflict. The appellees presented four doctors, one of whom was Dr. Holmes, and four laymen. Among the statements made by Dr. Holmes are these:

5.

"Q. Was he capable of understanding any kind of business transaction that anybody might have handed him that day (Jan. 18, 1950)?

"A. No, sir, he wasn't.

"ON RE-CROSS EXAMINATION:

"Q. Now Doctor, was he of unsound mind also on the 29th of January, 1950?

"A. Yes sir.

"Q. And at all times on the 18th?

"A. He was mentally confused, and completely disorientated entirely from the time he was there.

"Q. And you say he wasn't capable of knowing what he was doing at all?

"A. No sir."

The appellant, Mrs. Casey, and seven laymen testified that Mr. Krump was of sound mind, but no medical testimony was offered in support of this position.

We have read and carefully considered all the evidence, and indulging in the presumption that the finding of the trial court, who saw and heard the witnesses, will not be disturbed unless plainly and palpably wrong, Gardiner v. Willis, 258 Ala. 647, 64 So. 2d 609, we think the decree of the circuit court should be affirmed.

Affirmed.

Livingston, C. J., Lawson and Stakely, JJ., concur.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 576

Mildred Casey

, Appellant,

vs.

Matt Krump et al

, Appellee,S

From Baldwin
In Equity

Circuit Court.

The State of Alabama,
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to five inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 21st day of

January, 1954

J. Render Thomas
Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19 53-54

1st Div., No. 576

Mildred Casey

Appellant,

vs.

Matt Krump et al.,

Appellee. s

From Baldwin Circuit Court.
In Equity

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1981

The State of Alabama {
Baldwin County

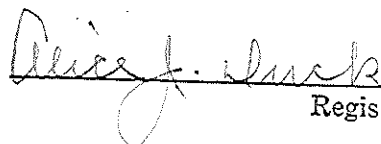
IN THE CHANCERY COURT OF BALDWIN COUNTY

To Matt Krump et alOr To Chason & Stone, Solicitors of record.Whereas, on the 8th day of April, 1953Mildred Caseytook an appeal from the decree rendered on the 9th day of October1952, by the Circuit Court of said county, in the cause ofMatt Krump and Herbert Krump

versus

Mildred Casey

Now, therefore, you are cited to appear as required by law, before the Supreme Court of Alabama. to defend on said appeal, if you think proper so to do.

Witness my hand this 14th day of October, 1953

Register in Chancery.

Received in Sheriff's Office
this 15 day of Oct, 1953
TAYLOR WILKINS, Sheriff

No. 2604

Received _____ day of _____ 1953

and on 15 day of Oct 1953

served a copy of the within _____

service on John Chason

TAYLOR WILKINS, Sheriff

By W. F. Hall D. S.

MATT KRUMP et al Complainant

vs.

MILDRED CASEY Respondent

CITATION OF APPEAL

IN EQUITY

Issued 14th day of Oct 1953

Moore Ptg. Co., Bay Minette

NIC KRUMP, a non compos mentis,
 By: Matt Krump, as his next
 friend,

Complainant,

vs.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.


NOTICE IS HEREBY GIVEN that Nic Krump, a non compos mentis, by Matt Krump, as his next friend, filed a Bill of Complaint in the Circuit Court of Baldwin County, Alabama, in Equity on January 31, 1951, which Bill of Complaint was filed for the purpose of declaring null and void a deed executed by Nic Krump to Mildred Casey on January 18, 1950, which deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 148 pages 359-61, which deed purported to convey the following described land situated in Baldwin County, Alabama, viz:

Lots 116, 115, 114, 126, 127, 131, and that part of Lot 139 lying directly Northwest of Lots 131 and 132 in Oak River View; Lot 3 of Block 1 and also Parcel B; Lots 113, 128, 129, 130 and that part of Lot 139 lying directly Northwest of Lots 129 and 130 in Oak River View; Lots 2 and 3 in Block 3, Unit 1, Gulf Shores, being a subdivision of Lot B, Section 20, Township 9 South, Range 4 East.

and to declare null and void a deed executed by Nic Krump to Mildred Casey, dated January 18, 1950, which said deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 149, pages 500-1, which deed purported to convey the following described land situated in Baldwin County, Alabama, viz:

The North half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Twenty-nine (29), Township Eight (8) South, Range Four (4) East, together with improvements situated thereon.

That the Bill of Complaint alleges that the said Nic Krump was of unsound mind at the time he executed and delivered such deeds and that he was mentally incapable of executing and delivering the same and that Mildred Casey exercised undue influence over him and thereby procured the execution and delivery of such deeds and the Bill of Complaint prays that said deeds be declared null and void and that Mildred Casey be declared to have no right, title or interest in and to said lands.


 Solicitors for Complainant.

MATT KRUMP and
HERBERT KRUMP,

VS.

Complainants,

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2603

APPEAL

Now comes the respondent in the above entitled cause and appeals to the Supreme Court of the State of Alabama from the decree of the Circuit Court of Baldwin County, Alabama, in Equity, rendered in this cause on the 9th day of October, 1952.

Dated this 8th day of April, 1953.

J. B. Blossman
Solicitor for respondent.

APPEAL

MATT KRUMP and HERBERT KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

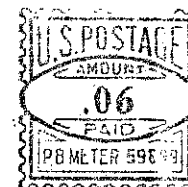
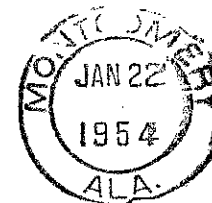
NO. 2603

FILED

4-8-53

ALICE J. DUCK, Register

OFFICE OF
CLERK OF THE SUPREME COURT
STATE OF ALABAMA
MONTGOMERY



Mrs. Alice J. Duck
Register Baldwin Circuit Court
Bay Minette,
Alabama