3199

SUMMONS Form 1531-3 McQuiddy Printing Co., Nashville, Tenn.

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 T. A. McKenzie, Margaret McKenzie, and Baldwin County Savings & Loan Association, Inc., a corporation

to appear and answer, plead, or demur, within thirty days from the service hereof, to a Bill of Complaint filed in said Circuit Court, in equity, for said County of said State by Peoples Fertilizer Co. a Corp.

against T. A. McKenzie et als

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

Witness this 13th day of February, 19 54

Register.

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

Code 1923-6528-6529

PEOPLES FERTILIZER COMPANY, INC., a corporation, Complainant,	)	IN THE CIRCUIT COURT OF
-vs-	)	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a corporation, Respondent.	)	IN EQUITY

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, Sitting in Equity:

Your Complainant respectfully shows and represents unto your Honor the following:-

1. That the Complainant, Peoples Ferlitizer Company, Inc., a corporation, is an Alabama corporation, regularly domiciled in Baldwin County, Alabama; that the Respondent, T. A. McKenzie is over the age of twenty-one years and is a resident of Baldwin County, Alabama; that the Respondent, Margaret McKenzie, wife of T. A. McKenzie, is over the age of twenty-one years and a resident of Baldwin County, Alabama; that the Respondent, Baldwin County Savings & Loan Association, Inc., a corporation, is an Alabama corporation, whose home office is in Robertsdale, Baldwin County, Alabama.

2. That on, to-wit, the 9th day of April, 1951, the Respondent, T. A. McKenzie, was the owner of certain real estate in Baldwin County, Alabama, more particularly described as the South Half (S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East.

3. That on the 9th day of April, 1951, the Respondent, T. A. McKenzie, made and entered into an agreement by Promissory Note, to pay to the Complainant One Thousand One Hundred and Two and 89/100 Dollars ($1,102.89), plus interest, on the 25th day of June, 1951, and that there was due on an open account Nine Hundred Thirty and 87/100 Dollars ($930.87).

4. That during the month of March or April, 1953, the Respondent, T. A. McKenzie, acknowledged the indebtedness to the Complainant, and that he made an unqualified promise to pay, but

C. G. C.

to the date hereof has not yet done so, even though on the 18th day of August, 1953, a judgment was rendered by the Circuit Court of Baldwin County, Alabama, in favor of the Complainant and against the Respondent, T. A. McKenzie, in the sum of One Thousand Two Hundred Seventy-two and 89/100 Dollars ($1,272.89) on the Promissory Note, and in the sum of Nine Hundred Fifty and 87/100 Dollars ($950.87) on the verified account.

5. That on a "blank" day of April, 1953, the said Respondent, T. A. McKenzie, sometimes known as Thomas McKenzie or sometimes known as Turner McKenzie, conveyed, as Thomas McKenzie, to Margaret McKenzie, his wife, "the South Half (S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, in Baldwin County, Alabama, save and except fourteen (14) acres off the Southeast corner, which was deeded to William Moore and wife", which said conveyance to the Respondent, Margaret McKenzie, was recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 194 NS, Pages 486 and 487.

6. The Respondent, Margaret McKenzie, and T. A. McKenzie, her husband, immediately thereafter executed and delivered a real estate mortgage to the Respondent, Baldwin County Savings & Loan Association, Inc., in the principal amount of Three Thousand Dollars ($3,000.00), which said mortgage was recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Book 224, at Pages 242 to 244, inclusive.

7. Complainant avers that said conveyance from the said T. A. McKenzie to the said Margaret McKenzie was made without adequate consideration and was in truth a deed of gift, made with the intent to hinder, delay and defraud the creditors of the said T. A. McKenzie, including the Complainant, whose indebtedness had been acknowledged, and that the said conveyance and the Mortgage later made to the Baldwin County Savings & Loan Association, Inc., are therefore null and void, and should be set aside and held to be of no force and effect.

C. G. C.

8. That an execution has been issued from the Circuit Court

of Baldwin County, Alabama, on the judgment in favor of the Complainant, and has been returned by the Sheriff of Baldwin County, Alabama, marked "no property found".

THE PREMISES CONSIDERED, Complainant prays that T. A. McKenzie be made a party defendant to this cause and that Margaret McKenzie be made a party defendant, in that she joins in the conveyance to herself of the real estate hereinabove more particularly described, and that the Baldwin County Savings & Loan Association, Inc., be made a party defendant, in that they are the holders of a real estate mortgage made after the transfer by the said T. A. McKenzie to the said Margaret McKenzie, and that proper subpoenas may issue to all of them, requiring them to plead, answer or demur to this Bill of Complaint within the time provided by Law and that upon a hearing, it may be decreed that the said conveyance by the said T. A. McKenzie to the said Margaret McKenzie is void, and that the same may be by order of this Court, annulled and held for naught. Complainant prays that such other, further or different relief as in the premises it may be entitled and as in duty bound it will ever pray.

Executed Feb. 15, 1954
By service on: T. A. McKenzie
Margaret McKenzie and
Baldwin County Savings
& Loan Association, Inc.
Sidney Chandler asst. Sec/Treas.
Sheriff - Taylor Wilkins
By Edleigh Steadham
Frank Osborne

Solicitor for the Complainant

Filed Feb. 13, 1954
Alice J. Huck, Register

C. G. C.

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant, -vs- T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondents.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY NO. 3199

It being made to appear to the Court that the Baldwin County Savings & Loan Association, Inc., a Corporation, is not now a party to this cause, the action against said corporation having been dismissed without prejudice, and it being made to appear that a Decree Pro Confesso has been rendered against T. A. McKenzie, who is sometimes known as Thomas McKenzie, and sometimes known as Turner McKenzie, and Margaret McKenzie, who is the wife of the said T. A. McKenzie, and upon pleading and proof submitted, and upon consideration thereof, the Court is of the opinion that the Complainant, Peoples Fertilizer Company, Inc., a Corporation, is entitled to the relief prayed for in said Bill against the Respondents, T. A. McKenzie and Margaret McKenzie.

It being further made to appear to the Court that in April of 1953, the Respondent, T. A. McKenzie, conveyed as Thomas McKenzie to his wife, Margaret McKenzie, the following real estate in Baldwin County, Alabama, to-wit:- The South Half (S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, save and except fourteen (14) acres off the Southeast corner, which was deeded to William Moore and wife, said conveyance being recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 194, Pages 486-487, And it further being made to appear that said conveyance was made without adequate consideration, and was in fact made with the intent to hinder, delay, and defraud the creditors of the said T. A. McKenzie,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that said conveyance dated the "blank" day of April, 1955, from

(S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, in Baldwin County, Alabama, save and except fourteen (14) acres off the Southwest corner, which was deeded to William Moore and wife, is null and void, and of no force and effect, and is annuled and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court tha the Register place a copy of this Decree of record in the office of the Judge of Probate of Baldwin County, Alabama, and that the Respondents, T. A. McKenzie and Margaret McKenzie, be taxed with the Costs thereof, along with the Costs of this proceeding, for which execution may issue.

There having been a dismissal as to Baldwin County Savings & Loan Association, Inc., a corporation, this Decree shall not be constituted to render null, void, or uninforcible any mortgage or other instrument of record to said corporation as recited in the original Bill of Complaint.

DONE this the 9th day of January, 1959.

I, Alice J. Beck, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a true and correct copy of the original decree rendered by the Judge of the Circuit Court of Baldwin County, in the above styled cause, which said decree is on file and of record in my office.
WITNESS MY HAND AND SEAL THIS THE 9 day of Jan 1959

Hubert M. Hall
Circuit Judge

Register of Circuit Court, in Equity

STATE OF ALABAMA, BALDWIN COUNTY
Filed 4-13-59 10 A.M.
Recorded Deed book 277 page 94-5
M. Stewart
Judge of Probate

(SW¼) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, in Baldwin County, Alabama, save and except fourteen (14) acres off the Southwest corner, which was deeded to William Moore and wife, is null and void, and of no force and effect, and is annulled and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Register place a copy of this Decree of record in the office of the Judge of Probate of Baldwin County, Alabama, and that the Respondents, T. A. McKenzie and Margaret McKenzie, be taxed with the Costs thereof, along with the Costs of this proceeding, for which execution may issue.

There having been a dismissal as to Baldwin County Savings & Loan Association, Inc., a corporation, this Decree shall not be constituted to render null, void, or unenforcible any mortgage or other instrument of record to said corporation as recited in the original Bill of Complaint.

DONE this the 9th day of January, 1989.

Hubert M. Hall
Circuit Judge

Register of Circuit Court, in rec.

STATE OF ALABAMA, BALDWIN COUNTY
Filed 4-13-89 1989
Recorded Book 477 page 97
Judge of Probate

TO Peoples First Corp
to (US)
3.00 P.C. Inc. Energy
Mortgage Tax
Paid Office of Jon F. Kan
477-04-5

Hubert M. Hall
Circuit Judge

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

July 1, 1954

Mrs. Alice J. Duck
Register
Bay Minette, Alabama

Dear Mrs. Duck:

A Decree Pro Confesso was entered on the minute books by Judge Hall some time ago. Please put the date on this Decree and ask Judge Hall to sign it.

Yours very truly,

Cecil

C. G. Chason

CGC:dc

Encl. 1

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

February 12, 1954

Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is Bill of Complaint in the suit of Peoples Ferlitizer Company, Inc., a corporation -vs- T. A. McKenzie, et als, along with three (3) copies.

Yours very truly,

C. G. Chason

CGC:fm

encls. 4

3199

Peoples Fertilizer Co. Inc. a corp

vs.

J. A. McKenzie et al.

FILED
FEB 13 1954
ALICE J. DUCK, Register

C. H. Chase

PEOPLES FERTILIZER COMPANY, INC., A Corporation, Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE and BALDWIN COUNTY SAVINGS AND LOAN ASSOCIATION, INC., a Corporation, Respondents.	)	IN EQUITY NO. 3199

DECREE SUSTAINING DEMURRER

This cause coming on to be heard on this date is submitted on a demurrer to the Bill of Complaint filed by the respondent, Baldwin County Savings and Loan Association, upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court that the said demurrer be and the same is hereby sustained. The complainant is allowed twenty (20) days to amend its said Bill of Complaint if it shall elect so to do.

ORDERED, ADJUDGED AND DECREED on this the 20 day of April, 1954.

Hubert M Hall
Judge

Aug. 17, 1955

Mrs. Alice J. Duck
Register
Bay Minette, Alabama

Dear Mrs. Duck:

Please issue a commission to the secretary of the firm of Wilters and Brantley, Attorneys, to take testimony in the case of Peoples Fertilizer Company, Inc., a corporation vs T. A. McKenzie to set aside a conveyance, this being Equity No. 3199.

I am enclosing herewith a suggested decree by the Court. Upon receipt of the testimony, please submit the cause to Judge Hall for his consideration.

Yours very truly,

C. G. Chason

CGC:dc

cc: Hon. H. M. Hall
Circuit Judge
Bay Minette, Alabama

Tolbert Brantley
Wilters and Brantley
Bay Minette, Ala.

MOTION TO SET ASIDE

DECREE PRO CONFESSO

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondent,	)	IN EQUITY

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT FOR BALDWIN COUNTY ALABAMA, Sitting in Equity:

COMES NOW T. A. McKenzie and Margaret McKenzie, Respondents in the above styled cause and say that they have filed a complete answer to the Bill of Complaint, and that they stand ready to pay all reasonable costs against them, and that they stand ready to do any and all matters required of them by this Honorable Court:

And the Respondents pray that this Honorable Court set aside the decree pro confesso enteredtagainst them on the _____ day of _____, and the Respondents further pray that they be allowed to make all motions, prayers and bring all evidence to which they may be entitled in this cause.

W. Lee Hayes

Solicitor for Respondents
T. A. McKenzie and Margaret McKenzie.

DECREE SUSTAINING DEMURRER

PEOPLES FERTILIZER COMPANY, INC.,
A Corporation,

Complainant,

VS.

T. A. McKENZIE, MARGARET
McKENZIE and BALDWIN COUNTY
SAVINGS AND LOAN ASSOCIATION,
INC., A Corporation,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 3199

FILED
APR 23 1954
ALICE J. DECK, Register

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant, VS- T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY NO. 3199

It being made to appear to the Court that the Baldwin County savings and Loan Association, Inc., a corporation, is not now a party to this cause, the action against said corporation having been dismissed without prejudice, and it being made to appear that a Decree Pro Confesso has been rendered against T. A. McKenzie, who is sometimes known as Thomas McKenzie, and sometimes known as Turner McKenzie, and Margaret McKenzie, who is the wife of the said T. A. McKenzie, and upon pleading and proof submitted, and upon consideration thereof, the Court is of the opinion that the Complainant, Peoples Fertilizer Company, Inc., a Corporation, is entitled to the relief prayed for in said Bill against the Respondents, T. A. McKenzie and Margaret McKenzie.

It being further made to appear to the Court that in April of 1953 the Respondent, T. A. McKenzie conveyed as Thomas McKenzie to his wife, Margaret McKenzie the following real estate in Baldwin County, Alabama to-wit: The South Half (S½) of the Southwest Quarter (SW¼) of Section Eleven (11) of Township Seven (7) South, Range Two (2) East, save and except 14 acres off the Southeast Corner, which was deed to William Moore and wife, said conveyance being recorded in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 194, pages 486-487. And it further being made to appear that said conveyance was made without adequate consideration, and was in fact made with the intent to hinder, delay, and defraud the creditors of the said T. A. McKenzie.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that said conveyance dated the "blank" day of April, 1955 from Thomas McKenzie to Margaret McKenzie, conveying the South Half (S½) of the Southwest Quarter (SW¼) of Section Eleven (11), Township

C. G. C.

Seven (7) South, Range Two (2) East in Baldwin County, Alabama, save and except 14 acres off the Southeast Corner, which was deeded to William Moore and wife, is null and void, and of no force and effect, and is annuled and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Register place a copy of this decree of record in the office of the Judge of Probate of Baldwin County, Alabama, and that the Respondents, T. A. McKenzie and Margaret McKenzie be taxed with the cost thereof along with the cost of this proceeding for which execution may issue.

There having been a dismissal as to Baldwin County Savings and Loan Association, Inc., a corporation, this decree shall not be constituted to render null, void, or uninforcible any mortgage or other instrument of record to said corporation as recited in the original Bill of Complaint.

Done this the 9- day of ~~August, 1955~~ January 1959.

Lubon M Pace
Circuit Judge

C. G. C.

PEOPLES FERTILIZER COMPANY, INC., a corporation, Complainant,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a corporation, Respondent,	)	IN EQUITY

-.-.-

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT FOR BALDWIN COUNTY, ALABAMA, Sitting in Equity:

Comes now the Respondents, T. A. McKenzie and Margaret McKenzie, reserving unto themselves all right of exception to the Bill of Complaint and files this demurrer and answer, saying and assigning seperately and severally the following grounds of demurrer:

1. There is no equity in the Bill.

2. The facts alleged do not state a cause of action.

3. It affimitavely appears from the allegations of the Bill that Complainant is not entitled to relief.

4. The allegations that the deed is null and void as a conclusion of the pleader.

5. Complainant does not offer to do equity.

6. It affirmatively appears from the allegations of the Bill of Complaint that the conveyance from T. A. McKenzie to Margaret McKenzie, which is described in the Bill of Complaint, was made for a good consideration and is therefore valid.

And the Respondents say in answer to the Bill of Complaint as follows:

I

That the Respondent, T.A. McKenzie was to the best of his knowledge and belief owner of the described real estate;

II

That the Respondent, T.A.McKenzie did, to the best of his knowledge and belief, make and enter into the said promissory note, and that he was owing the open account as set out in the Bill of Complaint of Complainant;

III

That the Respondent, T.A. McKenzie, to the best of his knowledge and belief, acknowledge the indebtedness, and that he has always,and does now, attempted to pay the said debt in the best way that he could considering his financial condition and ability to pay, and that he has in fact made payments on the said debt;

IV

That the Respondent, T.A.McKenzie, did convey certain lands to his wife, Margaret McKenzie, by instrument referred to in the Bill of Complaint;

V

That the Respondents, Margaret McKenzie and T.A.McKenzie did execute and deliver a real estate mortgage to the Respondent, Baldwin County Savings and Loan Assocation;

VI

And the Respondents, T.A.McKenzie and Margaret McKenzie, further say that the said deed from T. A. McKenzie to Margaret McKenzie was made for good and adaquate consieration, that it was not made with the intent to hinder, delay, defruad, or otherwise deter the creditors of the said T. A. McKenzie,

VII

VII

And these Respondents deny all combination , confederacy, and intent to defraud, wherewith they are by this said Bill of Complaint charged, without this, that any other matter in the said Bill of Complaint contained necessary for these Respondents to make answer unto and not herein well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of these Respondents, all which matters these Respondents are ready and willing to aver, maintain and prove, as this Honorable Court shall direct; and prays to be hence dismissed with their reasonable costs and discharges in this behalf sustained.

Wilson Hayes
Solicitor for Respondents, T. A. McKenzie and Margaret McKenzie

Filed Aug. 9, 1954
Alice J. Luck,
Register

3199

DEMURRER AND ANSWER

PEOPLES FERTILIZER CO. INC.,
A CORP.
complainant
vs.

T. A. McKENZIE et al.
respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

PEOPLES FERTILIZER COMPANY, INC., a corporation, Complainant,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA
-vs-	)	
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., A corporation, Respondent.	)	IN EQUITY NO. 3199

In this cause it being made to appear that service was had on the Respondents T. A. McKenzie, Margaret McKenzie, and Baldwin County Savings and Loan Association, Inc., a corporation more than thirty days prior to the date hereof, and Peoples Fertilizer Company Inc., a corporation and Baldwin County Savings & Loan Association, Inc. appearing in open court and the suit being dismissed against Baldwin County Savings and Loan Association, Inc. without predjudice by Peoples Fertilizer Company, Inc., a corporation the Complainant, and T. A. McKenzie and Margaret McKenzie having failed to plead, demurr or answer the Bill of Complainant filed in this cause to this date, it is therefore on motion of C. G. Chason, Attorney for the Complainant, ordered adjudged and decreed as follows:

That the Bill of Complainant in this cause be and the same is hereby in all things taken and confessed against the said T. A. McKenzie and Margaret McKenzie.

That the Bill of Complainant is dismissed without predjudice against the said Baldwin County Savings and Loan Association, Inc., a corporation.

Done this 13th day of April, 1954.

Hubert M. Hare
Judge

C. G. C.

THE STATE OF ALABAMA, Baldwin County } No. 3199 Circuit Court, In Equity.

PEOPLES FIRTLIZER COMPANY, INC. a corporation Complainant

Vs.

T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC. Defendant

Motion is hereby made for a Decree Pro Confesso against ~~T. A. McKENZIE and MARGARET~~ McKENZIE Defendant s

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant s; and that said summons was duly served according to law, and that said Defendant s have failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This 13th day of April 1954

Solicitor.

No. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, In Equity

_____

_____

_____

Vs.

_____

_____

_____

Motion for Decree Pro Confesso on Personal Service

Filed _____ 19 _____

FILED
APR 13 1954

_____ Register.

Recorded in Alice J. Buck, Register _____ Record

Vol. _____ Page _____

_____ Register.

CIRCUIT COURT COMPLAINT

Printed by the Baldwin Times, Bay Minette, Alabama.

Peoples Fertilizer Company, Inc., a Corporation Complainant,
Vs.
T. A. McKenzie et als.
Respondent.

In the Circuit Court.

In Equity No._____.

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondents T/A. McKenzie and Margaret McKenzie, on the 15th day of Februayy 1954

by the Sheriff of Baldwin County, on the 15th day of February, 1954.

And it further appears to the Register, that that the said T. A. McKenzie, and Margaret McKenzie

the Respondents, having to the date hereof, failed to plead, demur to or answer the Bill of Complaint filed in this cause, it is now, therefore, on motion of C. G. Chason Solicitors for Complainant, ordered, and decreed by the Register that the Bill of Complaint in this cause be, and it hereby is, in all things taken as confessed against the said T. A. McKenzie and Margaret McKenzie

This 13th day of APRIL, 1954.

Register.

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant, VS. T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondents.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY NO. 3199

DEMURRER

Now comes the respondent, the Baldwin County Savings & Loan Association, and demurs to that aspect or phase of the Bill of Complaint by which the complainant is seeking to have the mortgage to this respondent set aside, and as grounds for such demurrer assigns, separately and severally, the following:

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

2. The facts alleged do not state a cause of action against this respondent.

3. It affirmatively appears from the allegations of the Bill of Complaint that the complainant is not entitled to any relief against this respondent.

4. No facts are alleged to show that this respondent had any notice or knowledge that the deed described in the Bill of Complaint was without consideration.

5. No facts are alleged to show that this respondent had any knowledge or notice that the respondent, T. A. McKenzie, was indebted to the complainant at the time the mortgage to it, which is described in the Bill of Complaint, was made.

6. The allegation that the mortgage to this respondent, which is described in the Bill of Complaint, is null and void is a conclusion of the pleader and no facts are alleged to show that the said mortgage is null and void.

7. Complainant does not offer to do equity.

8. No facts are alleged to show that the loan from this respondent to Margaret and T. A. McKenzie, which is secured by the mortgage described in the Bill of Complaint, was not made for value and without notice of any fraudulent conveyance.

9. No facts are alleged to show that the mortgage to this respondent, which is described in the Bill of Complaint, was not executed and delivered for the consideration described therein.

10. No facts are alleged to show that the conveyance from T. A. McKenzie to Margaret McKenzie, described in the Bill of Complaint, is void as to this respondent.

11. It affirmatively appears from the allegations of the Bill of Complaint that the conveyance from T. A. McKenzie to Margaret McKenzie, which is described in the Bill of Complaint, was made for a good consideration and is entirely valid as to this respondent.

12. No facts are alleged to show that this respondent is not a mortgagee for value and without notice of complainant's claim against the other respondents in this suit.

J. B. Blackburn

Solicitor for respondent, Baldwin County Savings & Loan Association.

filed - Feb. 23, 1954
Alice J. Huck, Register

ORAL DEPOSITION

Printed by Moore Printing Co.

The State of Alabama,
Baldwin County.

Circuit Court of Baldwin County, Alabama
(In Equity)

Peoples Fertilizer Company Inc. Complainant

VS.

T. A. McKenzie et al Respondent

I, Evelyn Watts

as ~~Register and~~ Commissioner

have called and caused to come before me Tolbert M. Brantley

witness ____ named in the Requirement for Oral Examination, on the 26 day of September

19 55, at the office of Wilters & Brantley

in BayMinette, Alabama, and having first sworn said Witness ____ to speak the truth, the whole truth, and nothing but the truth, the said

Tolbert M. Brantley doth depose and say as follows:

See attached sheet.

ORAL EXAMINATION

I, Evelyn Watts, as ~~Register and~~ Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down by me in writing in the words of the witness and read over to him and he signed the same in the presence of myself

at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness or had proom made before me of the identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 26 day of September, 1955.

Evelyn Watts (L. S.)

No. ..... Page .....

The State of Alabama
Baldwin County.

In Circuit Court, In Equity

.....

vs. Complainant

.....

Respondent

Oral Deposition

Filed ....., 19....

....., Register

Recorded in

..... Record

Vol. ..... Page .....

....., Register

My name is Tolbert M. Brantley. I am one of the partners of the Law Firm of Wilters & Brantley; which is located at Bay Minette, Alabama.

The Peoples Fertilizer Company, Inc., a corporation, of Foley, Alabama, gave me several of their old accounts to collect. One of these accounts was that of T. A. McKenzie, also known as Thomas McKenzie and as Turner McKenzie. This account showed that on 9th April, 1951, T. A. McKenzie entered an agreement by promissory note to pay Peoples Fertilizer Company, Inc., $1102.89 plus interest; it showed further that, by an account rendered 25th June, 1951, he owed the Peoples Fertilizer Company, Inc., the sum of $930.87.

In April 1953, T. A. McKenzie came to my office to discuss the matter of this account. He acknowledged this to be a just debt and asked us to prepare a deed conveying South half of Southwest quarter of Section 11, Township 7 South, Range 2 East, less 14 acres out of the Southeast corner deed to William Moore and wife, to his wife. He stated that he was going to borrow money from the Baldwin County, Savings & Loan Association, upon this land and pay this account.

We did prepare the deed as requested by T. A. McKenzie whereby he conveyed the following described lands in Baldwin County, Alabama, to his wife Margaret McKenzie, to-wit:

> South half of Southwest quarter ofSection 11, Township 7 South, Range 2 East, save and except 14 acres off the Southeast corner, which was deed to William Moore and wife, said conveyance being recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 194, pages 486-7.

There was no consideration paid by Margaret McKenzie to T. A. McKenzie at this time. I do not believe any was ever paid: for T. A. McKenzie stated that this conveyance was being made in order to borrow money upon the land to pay the indebtedness claimed by Peoples Fertilizer Company, Inc.

T. A. McKenzie failed and refused to pay the aforesaid account. A suit was instituted against T. A. McKenzie upon the aforesaid note, judgment rendered against him; execution issued and a return made upon the execution of "No Property Found".

Within a very short time after the aforesaid deed was made T. A. McKenzie executed a mortgage upon this property to Baldwin County Savings & Loan Association for $3000.00. This mortgage is recorded in the office of the Probate Judge of Baldwin County, Alabama, in Mortgage Book 224, pages 242-244.

In my opinion the above described property was conveyed to Margaret McKenzie by Thomas McKenzie with intent to hinder, delay and defraud his creditors and in my opinion Margaret McKenzie was aware of this.

Margaret McKenzie and T. A. McKenzie are both over the age of 21 years. They were both residents of Baldwin County, Alabama, at the time of the aforesaid conveyance.

Tolbert M Brantley

COMMISSION TO TAKE DEPOSITIONS B.T.-500-11-54

THE STATE OF ALABAMA
Baldwin County } Circuit Court

TO: EVELYN WATTS

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, as such time and place as you may appoint, to call before you and examine Talbert M Brantley

a witnesses in behalf of Peoples Fertilizer Co Inc a corp in a cause pending in our Circuit Court in Baldwin County, of said State, wherein PEOPLES FERTILIZER COMPANY, INC. a corporation, Complainant

and T. A. McKENZIE et al

Respondent

on oath, to be by you administered, upon to take and certify the deposition of the witness and return the same to our Court, with all convenient speed, under your hand.

Witness 26th. day of Sept., 195 55.

Alice J. Wrich
Register.

Commissioner's Fee, $

Witness' Fees, $

No._____

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

PEOPLES FERTILIZER COMPANY, INC.
a corporation

Complainant

VS.

T. A. McKENZIE

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

EVELYN WATTA

WITNESSES:

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant, -vs- T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondents.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY NO. 3199

It being made to appear to the Court that the Baldwin County Savings & Loan Association, Inc., a Corporation, is not now a party to this cause, the action against said corporation having been dismissed without prejudice, and it being made to appear that a Decree Pro Confesso has been rendered against T. A. McKenzie, who is sometimes known as Thomas McKenzie, and sometimes known as Turner McKenzie, and Margaret McKenzie, who is the wife of the said T. A. McKenzie, and upon pleading and proof submitted, and upon consideration thereof, the Court is of the opinion that the Complainant, Peoples Fertilizer Company, Inc., a Corporation, is entitled to the relief prayed for in said Bill against the Respondents, T. A. McKenzie and Margaret McKenzie.

It being further made to appear to the Court that in April of 1953, the Respondent, T. A. McKenzie, conveyed as Thomas McKenzie to his wife, Margaret McKenzie, the following real estate in Baldwin County, Alabama, to-wit:- The South Half (S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, save and except fourteen (14) acres off the Southeast corner, which was deeded to William Moore and wife, said conveyance being recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 194, Pages 486-487, And it further being made to appear that said conveyance was made without adequate consideration, and was in fact made with the intent to hinder, delay, and defraud the creditors of the said T. A. McKenzie,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that said conveyance dated the "blank" day of April, 1955, from Thomas McKenzie to Margaret McKenzie, conveying the South Half

C. G. C.

(S½) of the Southwest Quarter (SW¼) of Section eleven (11), Township seven (7) South, Range two (2) East, in Baldwin County, Alabama, save and except fourteen (14) acres off the Southwest corner, which was deeded to William Moore and wife, is null and void, and of no force and effect, and is annuled and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Register place a copy of this Decree of record in the office of the Judge of Probate of Baldwin County, Alabama, and that the Respondents, T. A. McKenzie and Margaret McKenzie, be taxed with the Costs thereof, along with the Costs of this proceeding, for which execution may issue.

There having been a dismissal as to Baldwin County Savings & Loan Association, Inc., a corporation, this Decree shall not be constituted to render null, void, or uninforcible any mortgage or other instrument of record to said corporation as recited in the original Bill of Complaint.

DONE this the _____ day of _____, 195____.

_____
Circuit Judge

C. G. C.

MOTION TO SET ASIDE

DECREE PRO CONFESSO

PEOPLES FERTILIZER COMPANY, INC., a Corporation, Complainant,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a Corporation, Respondent,	)	IN EQUITY

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT FOR BALDWIN COUNTY ALABAMA, Sitting in Equity:

COMES NOW T. A. McKenzie and Margaret McKenzie, Respondents in the above styled cause and say that they have filed a complete answer to the Bill of Complaint, and that they stand ready to pay all reasonable costs against them, and that they stand ready to do any and all matters required of them by this Honorable Court:

And the Respondents pray that this Honorable Court set aside the decree pro confesso enteredtagainst them on the _____ day of _____, and the Respondents further pray that they be allowed to make all motions, prayers and bring all evidence to which they may be entitled in this cause.

Wilson Hargrove
Solicitor for Respondents
T. A. McKenzie and Margaret
McKenzie.

Filed
Aug. 10, 1954
Alice J Lock
Register

3/99

FILED
AUG 10 1954
ALICE J. BECK, Register

PEOPLES FERTILIZER COMPANY, INC., a corporation, Complainant,	IN THE CIRCUIT COURT OF
vs.	BALDWIN COUNTY, ALABAMA
T. A. McKENZIE, MARGARET McKENZIE, and BALDWIN COUNTY SAVINGS & LOAN ASSOCIATION, INC., a corporation, Respondent,	IN EQUITY

-*-*-

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT FOR BALDWIN COUNTY, ALABAMA, Sitting in Equity:

Comes now the Respondents, T. A. McKenzie and Margaret McKenzie, reserving unto themselves all right of exception to the Bill of Complaint and files this demurrer and answer, saying and assigning seperately and severally the following grounds of demurrer:

1. There is no equity in the Bill.

2. The facts alleged do not state a cause of action.

3. It affimitavely appears from the allegations of the Bill that Complainant is not entitled to relief.

4. The allegations that the deed is null and void as a conclusion of the pleader.

5. Complainant does not offer to do equity.

6. It affirmatively appears from the allegations of the Bill of Complaint that the conveyance from T. A. McKenzie to Margaret McKenzie, which is described in the Bill of Complaint, was made for a good consideration and is therefore valid.

And the Respondents say in answer to the Bill of Complaint as follows:

I

That the Respondent, T.A. McKenzie was to the best of his knowledge and belief owner of the described real estate;

II

That the Respondent, T.A.McKenzie did, to the best of his knowledge and belief, make and enter into the said promissory note, and that he was owing the open account as set out in the Bill of Complaint of Complainant;

III

That the Respondent, T.A. McKenzie, to the best of his knowledge and belief, acknowledge the indebtedness, and that he has always,and does now, attempted to pay the said debt in the best way that he could considering his financial condition and ability to pay, and that he has in fact made payments on the said debt;

IV

That the Respondent, T.A.McKenzie, did convey certain lands to his wife, Margaret McKenzie, by instrument referred to in the Bill of Complaint;

V

That the Respondents, Margaret McKenzie and T.A.McKenzie did execute and deliver a real estate mortgage to the Respondent, Baldwin County Savings and Loan Association;

VI

And the Respondents, T.A.McKenzie and Margaret McKenzie, further say that the said deed from T. A. McKenzie to Margaret McKenzie was made for good and adequate consideration, that it was not made with the intent to hinder, delay, defraud, or otherwise deter the creditors of the said T. A. McKenzie.

VII

VII

And these Respondents deny all combination , confederacy, and intent to defraud, whereunto they are by this said Bill of Complaint charged, without this, that any other matter in the said Bill of Complaint contained necessary for these Respondents to make answer unto and not herein well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of these Respondents, all which matters these Respondents are ready and willing to aver, maintain and prove, as this Honorable Court shall direct; and pray to be hence dismissed with their reasonable costs and discharged in this behalf sustained.

Wilson Hayes
Solicitor for Respondents, T. A. McKenzie and Margaret McKenzie

3199