

2645

MARIE ALPHONSE, as administratrix
of the Estate of Pauline Houston
Padgette,

COMPLAINANT

VS

THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS:

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

Come Frank A. Phillips and Alma Phillips, respondents,
in the above styled cause and move to strike complainant's bill
of complaint and as grounds say:

FIRST: That the bill of complaint does not state a
cause of action.

SECOND: The said bill of complaint is vague, indefinite
and insufficient in the allegations to entitle the complainant
to the rights sought to be enforced.

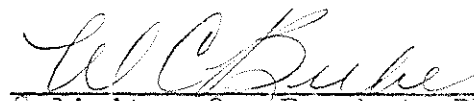
THIRD: The bill of complaint does not allege any facts
upon which the complainant is entitled to relief.

FOURTH: The bill of complaint does not seek any remedy
authorized to be had under the allegations of the bill of com-
plaint.

FIFTH: The respondents specifically move to strike
from the bill of complaint:

1. All of the allegations of paragraph seven.
2. That portion of paragraph eight, "that the petitioner
is the mother of the said Pauline Houston Padgette, deceased."
3. All of the allegations of paragraph thirteen.
4. All of the allegations of paragraph sixteen.
5. All of the allegations of paragraph seventeen.
6. All of the allegations of paragraph twenty.

And as grounds for the motion to strike said portions
of the bill of complaint, defendants say that the matters are
irrevelent.


Solicitor for Frank A. Phillips
and Alma Phillips

WILLIAM R. LAUTEN

ATTORNEY AT LAW

PITMAN BUILDING

FAIRHOPE, ALABAMA

May 21, 1951

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

Re: Marie Alphonse
Vs: The Bank of Fairhope, et al
No. 2645

Dear Mrs. Duck:

Please find herewith enclosed a statement of account, entitled Exhibit "A". I overlooked attaching this statement to the original bill which was filed with you the other day, but it is mentioned in the original bill. I would appreciate your attaching this statement to the original bill of complaint in the above cause and signing it.

You will also find herewith enclosed three copies of the original bill of complaint, each of which has attached thereto a copy of the statement mentioned in the above paragraph. Kindly issue a summons to each of the respondents in the case, and serve a copy of the bill on each.

Thanking you, I am

Yours very truly,

William R. Lauten

L/h

Dictated: May 18, 1951

Enc. 4

MARIE ALPHONSE, as Administratrix
of the Estate of Pauline Houston
Padgette,

Petitioner

vs

THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS; and
THE LANDS DESCRIBED HEREINBELOW

Respondents

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

On the 9th day of September, 1953, the same being the day set for the trial of the foregoing cause, and the same being called for trial, and the petitioner not appearing, upon motion of the respondents that said cause be dismissed for want of prosecution, the Honorable H. M. Hall, Judge of the Twenty-eighth Judicial Circuit, sitting in Equity, did make and enter on the trial docket of said cause an order dismissing the said cause for want of prosecution;

NOW THEREFORE, it is considered and ordered that the said cause be dismissed and the same is hereby dismissed as of September 9th, 1953, for want of prosecution.

Entered this the 30th day of June, 1954.

Gene J. Duck
Register.

MARIE ALPHONSE, as administratrix;
of the estate of Pauline Houston
Padgette,
COMPLAINANT
VS
THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS,
RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

Come the respondents in the above styled cause and demurring to complainant's bill of complaint say:

First: There is no equity in the bill.

Second: The said bill of complaint is vague, indefinite and insufficient in the allegations to entitle the complainant to the relief prayed for.

Third: The bill of complaint does not allege any facts upon which the complainant is entitled to relief.

Fourth: The bill of complaint does not seek any remedy authorized to be had under the allegations of the bill of complaint.

Fifth: The complainant does not offer to do equity.

Sixth: The complainant does not allege that she is ready, able and willing to pay such amount as this court shall decree.

Seventh: It does not appear from the allegations in said complaint against whom the complaint brings this action.

And now without waiving the foregoing demurrers but insisting upon the same the respondents answering the bill of complaint say:

1. That they admit the allegations of paragraphs one, two and three of the bill of complaint.

2. They deny the allegations of paragraph four that Welya R. Houston acquired an interest in the property described in paragraph four and allege that the said Pauline Houston Padgette acquired and owned the full interest in the said property.

3. They deny the allegations of paragraph five and say that the said Pauline Houston Padgette was the owner of the entire interest in the said property described in paragraph four.

4. They admit the allegations of paragraph six.

5. They deny the allegations of paragraph seven and demand strict proof of the same.

6. They deny the allegations of paragraph eight and demand strict proof of the same.

7. They admit the allegations of paragraph 9.

8. They deny the allegations of paragraph ten and say that neither the said petitioner nor any other person has any redemption right in said property.

9. They admit the allegations of paragraph eleven insofar as the same alleges the amount due under the said mortgage and the amount for which the same was foreclosed; they deny that the attorney's fee of \$121.30 was unreasonable and alleges that the same was reasonable and proper in the premises.

10. They deny the allegations of paragraph twelve.

They admit that the respondent, Frank A. Phillips purchased the said property from the Bank of Fairhope subject to the right of redemption by contract.

They admit that at the time of filing of the complaint that the entire amount of the purchase money to the Bank of Fairhope had not been paid and that the contract was not of record.

They further say that said Frank A. Phillips has paid the entire amount of the purchase money to the Bank of Fairhope subsequent to the filing of the bill of complaint in this cause and that the Bank of Fairhope has executed and delivered proper and sufficient deed to the respondents, Frank A. Phillips and Alma Phillips.

11. They admit the allegations of paragraph 13.

12. They admit the allegations of paragraph fourteen.

13. They deny the allegations of paragraph fifteen and say that the said improvements and expenditures made on the said property were just and proper and that at the time of the filing of the said complaint the items and amounts shown on exhibit A to the bill of complaint were true, accurate, reasonable and proper.

14. They admit the allegations of paragraph sixteen that Frank A. Phillips cultivated the lands described in paragraph one.

They deny that complainant is entitled to any accounting for rents and profits of such operation.

They admit that the improvements made on the said property were not authorized by the complainant, or the children of Pauline Houston Fadgette or Helys Houston, that such improvements were made without the consent of the petitioner or of such other named persons and they say that the respondents had a right to make such improvements without such knowledge or consent.

15. They deny the allegations of paragraph eighteen.

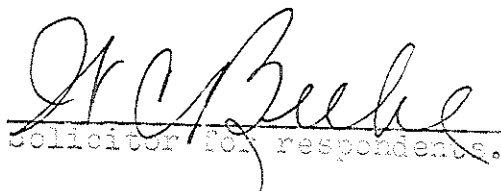
16. Answering the allegations of paragraph nineteen the respondents say that prior to the filing of this bill of complaint the respondents, Frank A. Phillips and Alma Phillips had erected a building on the said property as they had a legal right to do and the complainant can not complain therefor.

17. They deny the allegations of paragraph twenty that express notice was given to the Bank of Fairhope and to Frank A. Phillips and Alma Phillips and further answering they say that the said Frank A. Phillips had a right to make the improvements on the said property and that the same in no manner prejudiced complainant.

18. Answering the allegations of paragraph twenty-one respondents say that the complainant is not entitled to any accounting for rents and profits for use of the lands described in the bill of complaint.

And further answering the bill of complaint the respondents say that subsequent to the filing of the bill of complaint the respondents have paid additional money for taxes for the years 1951, and 1952 and are liable for the taxes in 1953, and have expended additional moneys in the maintenance and repairs of said properties, which said sum the respondents offer to prove to this honorable Court as additional charges against the said property.

And now having fully answered complainant's bill of complaint the respondents pray that they may go hence with their reasonable cost in this behalf expended.


Solicitor for respondents.

MARIE ALPHONSE, as Administratrix
of the Estate of Pauline Houston
Padgett,

Petitioner

vs

THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS: and
THE LANDS DESCRIBED HEREINBELOW

Respondents

IN THE CIRCUIT COURT OF

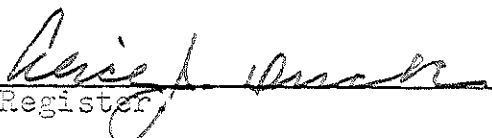
BALDWIN COUNTY, ALABAMA,

IN EQUITY

On the 9th day of September, 1953, the same being the day set for the trial of the foregoing cause, and the same being called for trial, and the petitioner not appearing, upon motion of the respondents that said cause be dismissed for want of prosecution, the Honorable H. M. Hall, Judge of the Twenty-eighth Judicial Circuit, sitting in Equity, did make and enter on the trial docket of said cause an order dismissing the said cause for want of prosecution;

NOW THEREFORE, it is considered and ordered that the said cause be dismissed and the same is hereby dismissed as of September 9th, 1953, for want of prosecution.

Entered this the 30th day of June, 1954.


Register

MARIE ALPHONSE, as Administratrix
of the estate of PAULINE HOUSTON
PADGETT, Deceased,

Complainant,

VS.

BANK OF FAIRHOPE, a State Banking
Corporation; FRANK A. PHILLIPS and
ALMA PHILLIPS,

Respondents.

IN THE

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

IN EQUITY.

NO. 2645

This cause coming on to be heard is submitted upon the motion of Marie Alphonse, as Administratrix of the Estate of Pauline Houston Padgett, to reinstate on the docket the cause of Marie Alphonse, Complainant, VS. Bank of Fairhope, et al., Respondents, being case No. 2645;

It appearing to the Court that the original complaint was filed on May 15, 1951, and was called on August 18, 1953, and continued to September 9, 1953, with the notation: "At which time cause to be tried or dismissed"; that on September 9, 1953, the case was regularly called the the Complainant failing to appear and prosecute the same, the said cause was dismissed for want of prosecution.

The Court is of the opinion that the Petitioner is not entitled to the relief prayed for and the Petition is, therefore, denied and overruled.

Dated at Bay Minette, this 26th day of February, 1953.

Hubert M. Allen

Judge of the 28th Judicial Circuit
of Alabama.

MARIE ALPHONSE, as Administratrix
of the Estate of Pauline Houston
Padgette,

Complainant,

Vs.

THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

MOTION TO REINSTATE.

Comes now MARIE ALPHONSE, as Administratrix of the Estate of Pauline Houston Padgette, Complainant in the above styled cause, and shows unto this Honorable Court as follows:

1. That she is the Complainant in the above styled cause as the Administratrix of the Estate of Pauline Houston Padgette, Deceased; that she has a meritorious cause of action;

2. That the heirs of Pauline Houston Padgette, including four minors, will suffer irreparable harm of the above cause as dismissed out of this Honorable Court;

3. That on, to-wit: September 9, 1953, this Honorable Court made a bench note which reads as follows: "Dismissed for want of prosecution", but that there has been no Decree made and entered by this Honorable Court Dismissing said cause;

4. That your Complainant was not present at the said term of Court when said bench note was made, but that she had employed an Attorney, the Honorable Norborne C. Stone of Bay Minette, Alabama, to represent her, and had thought that he was representing her.

5. That, as stated in paragraph 1 hereof, your Complainant has a meritorious cause of action and is ready and willing to try this case on its merits at any time that may be convenient to this Honorable Court and to the Respondents.

WHEREFORE, THE PREMISES CONSIDERED, Complainant prays that this Honorable Court will make and enter an Order reinstating this cause on the trial docket of this Honorable Court and declaring void and of no effect the bench note made by this Honorable Court on the aforesaid 9th day of September, 1953.

Marie Alphonse

STATE OF ALABAMA, 0
COUNTY OF BALDWIN. 0

Before me, TELFAIR J. MASHBURN, JR., a Notary Public in and for said County and State, personally appeared MARIE ALPHONSE, whose name is signed to the foregoing Motion to Reinstate and who is known to me, who, being first by me duly and legally sworn, deposes and says: "I am the Complainant in the above styled cause, and I signed the foregoing motion; and the statements and allegations contained in the said Motion are true and correct.

Marie Alphonse

Sworn to and subscribed before me on this the 5th day of November, 1953.

T. J. Mashburn, Jr.
Notary Public, Baldwin County, Ala.

I hereby accept service of a copy of the above and foregoing Motion to Reinstate.

W. C. Beck
Solicitor for Respondents.

11-17-53 Re above motion submitted this Nov 17, 1953
and continued to Nov 24, 1953

11/24/53 Continued to 12/20/53 Hubert Mitchell Judge
Husker Judge

12/20/53 Continued to 1/10/54
Husker Judge

1/10/54 Continued to 2/5/54 Husker Judge

2/5/54 Continued to 2/26/54 Husker Judge

2/26/54 Motion overruled and denied
Husker Judge

Marie Alphonse,
as administratrix
of the Estate of
Pauline Houston
Padgette,
Complainant

vs.

The Bank of Fairhope,
a State Banking
Corporation; Frank
A Phillips and
Alma Phillips,
Respondents.

FILED

NOV

ALICE J. COCK, Register

MARIE ALPHONSE, as Administratrix
of the Estate of Pauline Houston
Padgette,
Petitioner

VERSUS

/ THE BANK OF FAIRHOPE, a State
Banking Corporation; FRANK A.
PHILLIPS and ALMA PHILLIPS: and
THE LANDS DESCRIBED HEREINBELOW,
Respondents

IN THE
CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.
IN EQUITY.

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID
COURT:

Comes the petitioner in the above entitled cause and shows
unto this Honorable Court as follows:

1. Pauline Houston Padgette, who is now deceased, owned,
at the time of her death, subject to the mortgage hereinafter described,
an undivided one-half ($\frac{1}{2}$) interest in and to the following described
real property in Baldwin County, Alabama, to-wit:

From the Half-Section corner on the
South line of Regular U. S. Section Five
(5), Township Five (5) South, Range Two
(2) East, run North 834 feet to the South
line of Lot One (1) of the Louis D'Olive
Tract; thence West along said South line
2500 feet to an iron stake for the point
of beginning; thence North 500 feet to an
iron stake on the North line of said lot;
thence North 86° 45' West, 2632 feet to
the East line of the Daphne Highway; thence
South along said East line 649 feet to an
iron stake on the South line of said lot;
thence East 2629 feet to the point of be-
ginning, containing 34.7 acres.

2. At the time of the death of Pauline Houston Padgette,
the owner of the other undivided one-half ($\frac{1}{2}$) interest in and to the
property described in paragraph 1, subject to the mortgage hereinafter
described, was Willie Padgette.

3. At the time of the decease of Pauline Houston Padgette,
the said Willie Padgette was the husband of said Pauline Houston
Padgette.

4. Prior to the marriage of Pauline Houston Padgett and Willie Padgett, the said Pauline Houston Padgett had been married to Melya R. Houston, the latter of whom is deceased, he having died prior to the marriage of Pauline Houston Padgett to Willie Padgett. Prior to the decease of Melya R. Houston, and while he was married to Pauline Houston Padgett, he and said Pauline Houston Padgett acquired the following described real property, situate, lying and being in Baldwin County, Alabama, to-wit:

From the Southeast (SE) corner of Section Five (5), Township Five (5) South, Range Two (2) East, run North 12.26 chains, West 109.67 chains for a point of beginning; thence South 6.36 chains; East 17.40 chains; North 1.77 chains; East 2.83 chains; North 4.59 chains; West 20.25 chains, to the point of beginning; containing 12.37 acres in Section Six (6), Township Five (5) South, Range Two (2) East.

5. The property described in paragraph 4 was owned by said Pauline Houston Padgett and the children of Melya R. Houston and Pauline Houston Padgett, hereinafter named, as tenants in common, and was the homestead of the said Pauline Houston Padgett and the children of Melya R. Houston and Pauline Houston Padgett at the time of the marriage of Pauline Houston Padgett to Willie Padgett.

6. While Pauline Houston Padgett was married to Willie Padgett, the said Pauline Houston Padgett, joined by the said Willie Padgett, executed and delivered a mortgage covering the parcels of real estate described in paragraphs 1 and 4 hereof to the respondent, The Bank of Fairhope, to secure the payment of the principal sum of, to-wit: Three Thousand Nine and 17/100 (\$3,009.17) Dollars.

7. Subsequently thereto Pauline Houston Padgett died, leaving surviving her husband, Willie Padgett, and the following named children, all born of the marriage of Pauline Houston Padgett and Melya R. Houston:

- (1) Josephine Archie Houston, who is a minor, eleven (11) years of age, and who resides in Daphne, Alabama.
- (2) Carolyn Theresa Houston, who is a minor, thirteen (13) years of age, and who resides at Daphne, Alabama.
- (3) Shirley Temple Houston, who is a minor, fifteen (15) years of age, and who resides at Daphne, Alabama.

- (4) Pauline Valtena Hall, who is a minor, seventeen (17) years of age, and who resides at Bay Minette, Alabama.
- (5) Stella D. Long, who is a minor, nineteen (19) years of age, but who is married, and who resides at Newark, New Jersey.
- (6) Marie E. Chandler, who is over the age of twenty-one (21) years, and who resides at Campbell, Ohio.
- (7) Carmelita Griggsby Robinson, who is over the age of twenty-one (21) years, and who resides in Newark, New Jersey.

8. That the petitioner is the mother of the said Pauline Houston Padgett, deceased, and has been duly appointed by the Probate Court of Baldwin County, Alabama, as Administratrix of the Estate of Pauline Houston Padgett, deceased.

9. That subsequent to the decease of said Pauline Houston Padgett, on, to-wit, February 6, 1950, the said mortgage of the said property, executed and delivered by Pauline Houston Padgett and Willie Padgett, was foreclosed by the respondent, The Bank of Fairhope, and the said property was purchased by the respondent, The Bank of Fairhope, at the foreclosure sale for the sum of, to-wit, Two Thousand Five Hundred Sixty-one and 57/100 (\$2,561.57) Dollars.

10. More than twelve (12) months have expired from the date of the foreclosure sale to the respondent, The Bank of Fairhope, and no other person has made a redemption as provided by Title 7, Sections 727, et seq., Code of Alabama, 1940, as amended.

11. The amount of the mortgage debt at the time of the foreclosure sale by the respondent, The Bank of Fairhope, that is, on, to-wit, February 6, 1950, was, to-wit, Two Thousand Four Hundred Twenty-six and 14/100 (\$2,426.14) Dollars. This figure includes the interest on the principal indebtedness to, to-wit, February 6, 1950. The petitioner alleges that an attorney's fee of \$121.30 for foreclosing the mortgage was made which the petitioner alleges to be an unreasonable attorney's fee for such services and the petitioner alleges that such amount for attorney's fee is not a lawful charge which should be made and which petitioner should not be required to

pay to the respondents to effect a redemption of the property described in paragraph 1 and 4 hereof.

12. The petitioner is informed and believes, and upon such information and belief alleges that the said property in its entirety was subsequently sold by the respondent, The Bank of Fairhope, the purchaser at the foreclosure sale, to the respondents, Frank A. Phillips and Alma Phillips, subject to the rights of redemption of the said property from the mortgage, by an executory contract of sale; that said executory contract of sale has not been found on the records in the Probate Office of Baldwin County, Alabama; that The Bank of Fairhope is the record holder of the title to the said property, subject to the right of redemption, as authorized by Title 7, Section 727, et seq., Code of Alabama, 1940, as amended. The petitioner is informed and believes, and upon such information and belief alleges, that the full purchase price for the said property to the respondent, The Bank of Fairhope, by the respondents, Frank A. Phillips and Alma Phillips, under the said executory contract of sale, has not been paid.

13. Subsequent to the foreclosure of the said mortgage by the respondent, The Bank of Fairhope, the said Willie Padgett executed an instrument purporting to convey to the respondents, Frank A. Phillips and Alma Phillips, all the interest of said Willie Padgett in and to the said property, hereinbefore described in paragraph 1 and 4 hereof, which instrument is recorded in Deed Book 154, page 153, of the records of the Probate Office of Baldwin County, Alabama.

14. On to-wit, April 23, 1951, a demand in writing was made by the petitioner of the respondent, The Bank of Fairhope, for a statement in writing of the amount which was claimed by the respondent, The Bank of Fairhope, to be necessary to redeem the said property, hereinbefore described in paragraphs 1 and 4 hereof, from the said mortgage, in accordance with Title 7, Section 727, et seq., Code of Alabama, 1940, as amended. On, to-wit, May 5, 1951, a statement in writing was presented to your petitioner, a copy of which is attached hereto and made a part hereof, marked Exhibit "A", purporting to be a statement of the amount necessary to redeem the said property

from the said mortgage.

15. The petitioner says that the total amount as shown by the said statement, marked Exhibit "A", is grossly exaggerated; that the improvements as alleged in said statement are unreasonable; that the amount alleged to be due for said improvements is unjust; that the alleged improvements in said statement were and are unnecessary; that the amount alleged to be necessary to redeem the said mortgage is so exaggerated and unjust that the petitioner is unable to determine what amount she should tender in order to redeem the said property from the said mortgage.

16. The petitioner alleges that the respondents, Frank A. Phillips and Alma Phillips, have been cultivating the land, described in paragraph 1 hereof, and have been raising crops on said land. No credit was given to the petitioner, or to the children of said Pauline Houston Padgett, hereinbefore enumerated, for the reasonable rental value of said land on which crops have been raised by the respondents, Frank A. Phillips and Alma Phillips, in the statement rendered by said respondents, on to-wit, May 5, 1951 and marked Exhibit "A", and petitioner claims a reasonable rental value of said premises be credited to petitioner in arriving at the figure necessary to effect a redemption of said premises.

17. That none of the alleged improvements in the said statement, marked Exhibit "A", were authorized by the petitioner or by the children of said Pauline Houston Padgett and Melya R. Houston, hereinbefore enumerated; that the alleged improvements, if any have been made, were made without the consent of the petitioner or any of the children of Pauline Houston Padgett, deceased, hereinabove enumerated.

18. That the petitioner cannot reasonably ascertain the amount required to redeem the said property from the said mortgage until this cause has been adjudicated by this Honorable Court.

19. There is now being built, erected, or placed on the said property, described in paragraph 1 hereof, what purport to be improvements, such purported improvements being made, built, erected or placed on said property by a person or persons, whose name or names are unknown to your petitioner; that said purported improve-

ments which are now being made, placed, erected or built on said property are being done so without the consent of the petitioner or any of the children of Pauline Houston Padgett, deceased, hereinabove enumerated.

20. The petitioner has given express notice to the respondents, The Bank of Fairhope, Frank A. Phillips and Alma Phillips, that she does not consent to any of the said purported improvements.

That if this Honorable Court allows the respondents, or person or persons who are in the process of making, erecting, building or placing said purported improvements on said property, the cost of said purported improvements would materially increase the amount necessary to redeem said mortgage, and would prejudice the right of the petitioner to redeem the said property from the said mortgage all to the detriment of the petitioner and the children of the said Pauline Houston Padgett, deceased, hereinbefore enumerated.

21. The petitioner offers to pay the debt which was due at the time of the foreclosure of the said mortgage, by the respondent, The Bank of Fairhope, together with the lawful interest thereon, and all lawful charges, which this Honorable Court adjudicates to be due and necessary to redeem the said property from the said mortgage, less the amount of the reasonable rental value of the property which was cultivated by respondents, Frank A. Phillips and Alma Phillips during the period they have been in possession of the same.

WHEREFORE, THE PREMISES CONSIDERED, the petitioner prays that this Honorable Court will take jurisdiction of this cause; will issue appropriate process out of this Court, requiring the respondents, The Bank of Fairhope, Frank A. Phillips and Alma Phillips, to appear, plead or answer this petition within the time required by law, and failing therein, that a decree pro confesso be taken against them; that this Honorable Court will authorize a reference to be had and made to ascertain the amount of the debt due at the time of the foreclosure of the said mortgage by the respondent, The Bank of Fairhope, the amount of all lawful charges necessary to redeem the said property from the said mortgage; that this Honorable Court will order an accounting to be made from the respondents to the petitioner; that this Honorable Court will ascertain the reasonable rental value of

the property during the period the same has been held and cultivated by the respondents, Frank A. Phillips and Alma Phillips, and order the respondents, Frank A. Phillips and Alma Phillips, to pay such reasonable rental value for the said premises for such period; that pending the adjudication of the rights of the parties hereto, that this Honorable Court will enjoin the person or persons who are now in the process of making, placing, erecting or building purported improvements on the land, described in paragraph 1 hereof; that this Honorable Court will make such orders, after the payment of the amount which this Court adjudicates to be necessary to redeem the said property from the said mortgage, directing the respondent, The Bank of Fairhope, to convey all its interest in said property, described in paragraphs 1 and 4 hereof, except the interest which the said Frank A. Phillips and Alma Phillips may have, if any, in and to the property described in paragraph 4 hereof which had been conveyed by Willie Padgett to said Frank A. Phillips and Alma Phillips; that upon the payment into this Honorable Court by the petitioner of the sum which this Honorable Court adjudicates to be necessary to redeem the said property from the said mortgage, that this Honorable Court will direct and order that a lien be established in favor of the petitioner on the said interest which was heretofore conveyed to the respondents, Frank A. Phillips and Alma Phillips, by said Willie Padgett, for one-half the amount which the petitioner pays into this Honorable Court in order to redeem the said property from the said mortgage; and the petitioner humbly prays for such other, different and general relief to which she may be entitled according to the circumstances of this cause.

Marie Alphonse

Marie Alphonse, as Administratrix
of the Estate of Pauline Houston
Padgett.

William R. Tucker
SOLICITOR FOR THE PETITIONER.

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, WILLIAM R. LAUTEN, a Notary Public in and for said County in said State, personally appeared MARIE ALPHONSE, who is known to me, and who being by me first duly sworn, deposes and says that she is the complainant in the above entitled cause and that the statements and allegations contained in the complaint are true and correct.

AFFIANT

Sworn to and subscribed before me this ____ day of May,

1951.

William R. Lauten

NOTARY PUBLIC
Baldwin County, Alabama

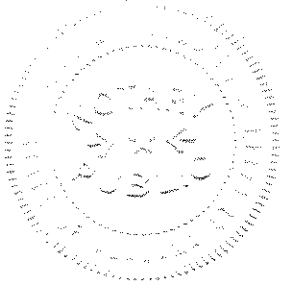


EXHIBIT "A"

STATEMENT

BANK OF FAIRHOPE VS WILLIE J. PADGETTE

The amount necessary to redeem WILLIAM J. PADGETTE MORTGAGE with interest to 6 May 1951 furnished under Section 732 of Title 7 of 1940 Code of Alabama.

Purchase price of property.	\$2561.57
Interest 10% from 6 February 1950 to 6 May 1951.	\$ 320.18
Taxes paid. March 1950.	\$ 17.15
Permanent improvements.	\$ 300.00
Clearing and cutting road.	\$ 18.00
Interest one year.	\$ 17.93
Tax paid. 1951	\$1525.00
Gas tanks, pump and island.	\$ 300.00
Well	\$ 420.00
Office Building.	\$ 250.00
Two rest rooms and septic tank.	\$ 130.00
Drive way.	\$ 12.00
Electric lights.	\$ 18.30
Fencing.	\$ 60.00
Repair house-blocking.	\$ 30.00
Cleaning house.	

TOTAL \$5980.13

Purchaser demands right to gather growing crops under Section 732.

VENDEE OF THE BANK OF FAIRHOPE

s/ Frank and Alma Phillips
By s/ Frank A. Phillips

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

CIRCUIT COURT, BALDWIN COUNTY

BALDWIN COUNTY

No. 2645

TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon The Bank Of Fairhope, Frank A. Phillips and
Alma Phillips

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against The Bank Of Fairhope
Frank A. Phillips , Alma Phillips and Certain Lands, Defendant

by Marie Alphonse as Administrator of the Estate of PAULINE HOUSTON PADGETTE
_____, Plaintiff.....

Witness my hand this 15th day of May 1951.....

Archie Leach, Clerk

No. 2645

RECORDED

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

MARIE ALPHONSE as Administrator

of the Estate of PAULINE HOUSTON PADGETTE
Plaintiffs

vs.

THE BANK OF FAIRHOPE, et als

Defendants

SUMMONS and COMPLAINT

Filed 5-15-51, 19

Wm. L. Linton, Clerk

Wm. L. Linton

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

May 24, 1951

Taylor Wilkins, Sheriff

I have executed this summons

this, 19

by leaving a copy with

Henry Bishop 5-26-51
agent for the Bank
of Fairhope.

Frank A. P. Phillips
Alma Phillips 5-28
51.

Taylor Wilkins, Sheriff

147 Hall, Deputy Sheriff