

JAMES HERBERT MANERY)
Complainant)
VS)
UNA MAE MANERY)
 Malais Una Mae Lowell
Respondent)

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

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

Comes your complainant James H. Manery, respectfully represents and shows unto your Honor the following:

1. That complainant, James H. Manery, is over the age of twenty-one years and a bona fide resident of Baldwin County, Ala. and that the respondent is over the age of twenty-one years and a resident of Baldwin County, Alabama.
2. That on or about to-wit: July 1, 1948, your complainant negotiated for and purchased from William Burmiester with proceeds recieved as inheirittance from his Parents estate the following parcel of land in Baldwin County to-wit:

From the Southeast corner of the Northeast Quarter of Section 17, Township 6 South, Range 2 East, run North on the Section line 608.3 feet and West 23 ft. for a point of beginning; thence West 250 ft.; thence North 143.7 feet; thence East 250 ft.; thence South 143.7 ft. to the point of beginning, being a part of the Northeast Quarter of the Northeast Quarter of Section 17, Township 6 South, Range 2 East, Baldwin County, Alabama, and contains 0.61 acre more or less being that property conveyed to Una Mae Manery by deed of W. H. Burmeister, dated April 10, 1950 and recorded in Deed Book 152, pages 9 and 10 of the Probate Records of Baldwin County, Alabama.

3. That your complainant purchased said parcel of land for the sole purpose of constructing a home for himself and family with a claim of homestead rights on said property and that for further security to the home and family the said parcel of land was conveyed upon your complainant's request, by the said William Burmeister to your complainant wife, Una Mae Manery, *alias Una Mae Lowell* and further that such conveyance was not a gift or understood by the said Una Mae Manery *alias Una Mae Lowell* to be a gift or become her separate property or estate.

4. That upon this parcel of land your complainant by his own physical toil and labor during his off hours and with material and supplies purchased with money earned solely by your complainant constructed a home into which he and his family moved.

5. That soon thereafter there developed strained relations between your complainant and his wife, Una Mae Manery ^{alias Una Mae Lowell} over her interest and relations with another man resulting in a separation agreement between the parties with no mention as to the disposition of this property.

6. That in December 1950, the said Una Mae Manery ^{alias Una Mae Lowell} brought an action for Divorce against your complainant, who believed himself to be represented by competent counsel and who desired to actively contest said action. That your complainant was not represented in said action and suffered a Decree Pro Confesso to be taken against him. That upon being informed that a decree of divorce had been granted to the said Una Mae Manery, ^{alias Una Mae Lowell} and before the 60 days allowed for and appeal had expired your complainant engaged counsel who has lawfully appealed from said decree, and which said appeal is now pending.

7. That the said Una Mae Manery, ^{alias Una Mae Lowell} removed from said parcel of land and home upon which your complainant presently resides and now seeks to claim said property as her own for the purpose of selling and converting the proceeds to her own use and to this end the said Una Mae Manery ^{alias Una Mae Lowell} has entered into a contract for the sale of said property and brought an action of unlawful detainer against your complainant.

PRAYER FOR PROCESS AND RELIEF

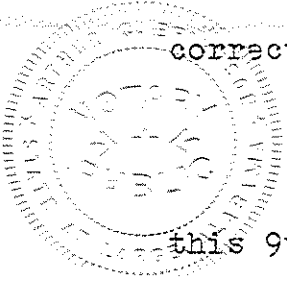
NOW THEREFORE, TO the end that the complainant will not unjustly be deprived of his home and property for which he has no adequate recourse at law, your complainant pray's that the respondent be restrained and enjoined from prosecuting said action of unlawful detainer and that the complainant have and be granted such other and further relief to which he may be entitled as in duty bound he will ever pray, and that relief be granted temporarily by an injunction pendente lite and that after notice as required by law to the Respondent that she be permanently enjoined from prosecuting an action of unlawful detainer against your complainant and your complainant will ever pray.


Complainant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Arthur C. Epperson, a Notary Public for the State of Alabama at Large, personally appeared, James Herbert Manery, who, after being by me first duly and legally sworn, deposes and says that his name is James Herbert Manery; that he is the complainant in the foregoing complaint for injunctive relief; that the matters and facts alleged therein are true and correct.



J. H. Manery

Sworn to and subscribed before me, a Notary Public, on this 9th day of June, 1951.

Arthur C. Epperson
Notary Public, State of Ala. at Large

TO ALICE J. DUCK, REGISTER

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY

This cause being submitted to the Court upon application of the complainant for temporary writ of injunction or temporary restraining order as prayed for in the original beill herein, and upon consideration thereof the Court being of the opinion that the same should be granted:

It is, therefore, ordered, adjudged and decreed by the Court that upon the complainant entering into a good and sufficient bond, conditioned as provided by law, in the sum of ~~\$500.00~~ ^{\$500.00} dollars same to be approved by the Register of this Court, that the Register issue a temporary writ of injunction (temporary restraining order) as prayed for in the original bill in this cause.

Done and ordered, the the 9th day of June, 1951.

Jeffery J. Madibury, Jr.
Circuit Judge

JAMES H. MANERY
Complainant

vs

UNA MAE MANERY,
Respondent

NO. 2658 EQUITY

CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Comes UNA MAE LOWELL, formerly MANERY, who appears specially for the sole purpose of filing this motion and moves that the injunction issued in this cause on June 9, 1951 be dissolved and said cause dismissed upon the following grounds:

FIRST: That no suit has been brought by Una Mae Manery seeking to claim the land described in paragraph two of Complainant's bill and hence there is no action of unlawful detainer brought by Una Mae Manery, as alleged in the Bill and sought to be enjoined thereby, and of this Complainant and his counsel are fully aware.

SECOND: That the Bill is without Equity in that it avers that the Complainant of his own volition and with no misrepresentation or fraudulent inducement on the part of his former wife, Una Mae Manery, voluntarily released all claim to the land here sued for and shows that he has no legal right thereto,

THIRD: That no grounds for injunction exist against Una Mae Manery or against Respondent in that Complainant has ample remedy by law under Sections 987 et seq of Title 7 of the Code of Alabama to have his rights determined by a removal of the cause to the Circuit Court.

FOURTH: That the divorce case of Una Mae Manery versus James H. Manery upon which Complainant's claims for an injunction are based is not now subject to appeal, that James H. Manery improperly obtained from the Circuit Judge of this County an order extending time for appeal in this case beyond March 17, 1951, which order was improperly and erroneously granted and hence time for appeal in such cases under Section 789 of Title 7 of the Code of Alabama, has passed.

FIFTH: That even if an appeal had been taken within sixty days the decree of divorce ~~was~~ granted between Una Mae and James H. Manery on January 15, 1951 remains valid and in effect until same is set aside in the Appellate Court which has not been done.

WHEREFORE, Una Mae Lowell now prays that the injunction heretofore rendered be dissolved and that she be permitted to go hence with her reasonable counsel fees and costs in this behalf expended.

Una Mae Lowell

Appearing specially.

By

Reinhardt Reinhardt
Her Solicitors

NO. 2658 EQUITY

JAMES H. MANERY,
Complainant

VS

UNA MAE MANERY,
Respondent

MOTION

TO DISSOLVE INJUNCTION

FILED

JUN 22 1991

ALICE L. BUCK, REGISTER

RICKARBY & RICKARBY

Solicitors

Mrs. Alice J. Duck
Register
Bay Minette, Alabama

Dear Mrs. Duck:

MANERY VS MANERY, No. 2658: With this find original and "flimsey" of motion to dissolve the temporary injunction and sworn answer to the Complainant which please file, sending the copies to Mr. Epperson.

Heretofore we have been mailing copies of pleadings to him direct but it seems that these have been going to his father, whose initials are different, so he asked that these copies be sent to you. This we are now doing.

We hoped to have a hearing on these tomorrow and the Judge made a setting accordingly, but we find that the Complainant under the Code will have to have ten days notice, so now request the Judge to give us a sitting as soon after Tuesday, the 3rd as possible. Please keep this in mind for us.

Sincerely,

Rickarby & Rickarby

EGR:fc
3028

JAMES HERBERT MANERY)
Complainant)
VS)
UNA MAE MANERY)
Respondent)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
NO. 2577

To any Sheriff of the State of Alabama:

You are hereby commanded to notify Rickarby & Rickarby of Fairhope, Alabama, solicitors of record, that James Herbert Manery has this day filed a bill of complaint in the Circuit Court, in Equity, against Una Mae Manery, praying among other things that Una Mae Manery be enjoined from prosecuting a suit for unlawful detainer against the said Herbert James Manery.

And Whereas, on said bill being exhibited to the Hon. Telefair J. Mashburn Jr., Judge of the Circuit Court, in Equity of said County, he ordered on the 9 day of June, 1951, that upon complainant - entering into bond with sureties in the sum of ~~\$200.00~~^{500.00} dollars and approved by the Register of this Court, payable and conditioned according to law, a writ of injunction issue out of said Court, according to the prayer of said bill.

And Whereas, bond having been given as required by said order you are therefore commanded and strictly enjoined from prosecuting a suit for unlawful detainer against the said Herbert James Manery until the further orders of this Court.

Witness my hand this the 9th day of June, 1951.

Alfred J. Leach

*Probate Return
MD 2685*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2577

James Herbert Manery

Complainant

VS

Una Mae Manery

Respondent

NOTICE TO ATTORNEY
OF INJUNCTION

FILED

JUN 9 1951

ALICE L. DUCK, Register

ARTHUR C. EPPERSON
ATTORNEY AT LAW
FOLEY, ALABAMA

*Executed June 9th 1951 by serving a
copy of the within writ on C. H. Rickerby
Member of the firm of Rickerby & Rickerby
Taylor William Sheriff
By Ed Leigh Steadham D.S.*

JAMES HERBERT MANERY)

Complainant)

VS)

UNA MAE MANERY)

Respondent)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2577

KNOW ALL MEN BY THESE PRESENTS, That we, James Herbert Manery are held and firmly bound unto Una Mae Manery in the just and full sum of ~~\$200.00~~^{500.00} dollars, for the payment of which said sum well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this the 9th day of June, 1951.

The condition of this obligation is such, That, whereas, James Herbert Manery has this day obtained an injunction enjoining the said Una Mae Manery from prosecuting an action at law, against the said James Herbert Manery for ^{unlawful} ~~illegal~~ detainer.

Now, therefore, if the said James Herbert Manery shall pay the amount of the damages recovered in said judgment, and also all damages and costs which the plaintiff in such judgement sustains by the suing out of this injunction if the same is dissolved, then this obligation to be null and void, otherwise to remain in full force and effect.

And we and each of us hereby waive all rights of claim of exemption as to personal property we or either of us have now or may hereafter have under the Constitution and Laws of Alabama, and we hereby severally certify that we have property free from all incumbrance to the full amount of the above bond.

Witness our hands and seals, this the 9th day of June, 1951.

J. H. Manery (L.S.)
Arthur L. Epperson (L.S.)

Approved 6-9, 1951.

Wesley L. Duck
Register

Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2577

JAMES HERBERT MANERY

Complainant

VS

UNA MAE MANERY

RESPONDENT

BOND ON INJUNCTION

ARTHUR C. EPPERSON
ATTORNEY AT LAW
BALDWIN, ALABAMA

JAMES HERBERT MANERY)
Complainant)
VS)
UNA MAE MANERY)
Respondent)

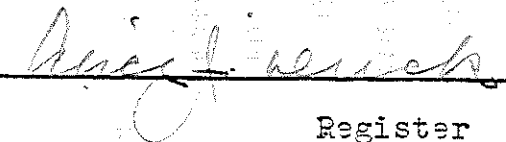
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
NO. 2577

To Una Mae Manery:

Whereas, one James Herbert Manery has exhibited his bill of complaint in equity, in the Circuit Court of Baldwin County, and has obtained from the Honorable Telefair J. Mashburn Jr., Judge of the Circuit Court, and order for the issuance of an injunction to enjoin you as hereinafter mentioned; and whereas, the said James Herbert Manery has, in accordance with said order, entered into bond, with security, in the sum of ~~\$200.00~~^{500.00} dollars, payable to Una Mae Manery and approved by the Register of said Court, and conditioned according to law.

Now, therefore, you, the said Una Mae Manery are hereby enjoined from prosecuting and action at law against the said James Herbert Manery for ^{unlawful} ~~lawful~~ detainer. and this Injunction you are required to obey under the penalties of law, until the further orders of this Court.

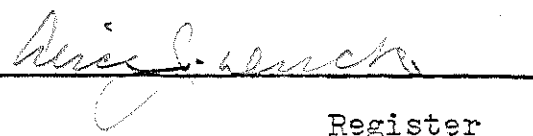
Witness my hand, this 9th day of June, 1951.


Register

To the Sheriff of Baldwin County:

You are hereby commanded to execute this writ, and return the same with your endorsement thereon, to this Court, with all Convenient speed.

Witness my hand, the 9th day of June, 1951.


Register

make Return

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2577

JAMES HERBERT MANERY

Complainant

VS

UNA MAE MANERY

Respondent

WRIT OF INJUNCTION

FILED

JUN 9 1951

ALICE J. DUCK, Register

ARTHUR C. EPPERSON

ATTORNEY AT LAW

FOLEY, ALABAMA

*Presented June 9th 1951 by leaving a
copy of the within motion Una Mae Manery*

*James W. Jenkins Sheriff
Baldwin County Alabama D. S.*

*My recd. Quality Street
F. 1000*

JAMES H. MANERY,
Complainant

vs

UNA MAE MANERY,
Respondent

NO. 2658 EQUITY

CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Comes UNA MAE LOWELL Who appears specially and solely for the purpose of filing this answer and for answer to the Bill of Complaint praying for an injunction against UNA MAE MANERY says:

FIRST: That no suit of Una Mae Manery versus JAMES H. MANERY in unlawful detainer as alleged in the Bill is pending, hence this proceeding is meaningless and of no effect.

SECOND: Respondent in answer to paragraph one admits that James H. Manery is over the age of twenty-one years and a bona fide resident of Baldwin County, Alabama and that Una Mae Manery up to March 17, 1951, was a resident of Baldwin County and over the age of twenty-one years but denies that any such person as Una Mae Manery now exists.

THIRD: In answer to paragraph two Una Mae Lowell admits that ~~WILLIAM BURMEISTER~~ under the specific instruction of James H. Manery deeded to Una Mae Manery the land described in said paragraph two and that the consideration for the conveyance of said lot was a mortgage held by James H. Manery on property left him by his parents and sold to a third party.

FOURTH: In answer to paragraph three, Una Mae Lowell admits that the deed to the property was put in the name of Una Mae Manery, then the wife of James H. Manery, at the latter's insistence and request, with no solicitation on her part and no question of the title which she obtained by said deed. Respondent says that Manery told her that the reason said property was put in her name as Manery's then wife^{was}/because he owed money to the Bank of Fairhope and this would prevent same from being made subject to his debts. That this was an attempted fraud upon Manery's creditors and that he cannot be allowed to profit by his own wrong, but must come into Equity with clean hands.

FIFTH: For answer to paragraph four, Una Mae Lowell says that while the building upon the lot conveyed as heretofore set out was constructed by James H. Manery, that Respondent as his then wife

was also working hard in the care and maintenance of the children and doing physical labor on the lands of her relatives to get food for the family. That in addition she borrowed money from her father and brother which was used to the purchase of equipment of James H. Manery as a cabinet maker and floor sander, and she, as his wife, was entitled to an equal share in all property bought by their joint labor.

SIXTH: To paragraph Five Respondent admits that strained relations existed between James H. Manery and his then wife, that said Manery's treatment of her was such that life with him became unbearable, that he sought advice of at least two reputable lawyers in Baldwin County to secure a divorce from his wife and was told by both of these that he had no grounds and that his wife, and she alone, could get a divorce and that only in the event of his abandoning her for a year, That pursuant to such advice James H. Manery consulted the late H. A. Burns, who drew up a separation agreement which was signed by both parties. That in accordance with this, Manery abandoned the bed and board of his then wife for more than a year at the end of which time she applied for and obtained a divorce in the Circuit Court of Baldwin County using the signed statement of said Manery as ^{additional} evidence of abandonment. Upon this the decree of divorce was granted.

SEVENTH: To paragraph Six Respondent admits that Una Mae Manery brought suit against her then husband for divorce in December 1950, Manery then consulted an able and alert lawyer in Bay Minette, but as Respondent is informed and believes, did not notify his counsel of the summons served upon him or pay any money for legal services as had been agreed upon; that said lawyer was without fault or negligence in handling Manery's case and when later approached by Manery, discovered that a final decree had been rendered and advised him that an appeal from such decree would be of no avail because of the irrefutable proof that had been adduced. That later, Manery through his present counsel now seeks to obtain an appeal from the decree of divorce, though same is forbidden by Code Section 789 of Title 7.

EIGHTH: To paragraph Seven Respondent says that Manery's provision of TWELVE DOLLARS per week for the support of the two children is inadequate, wherefore she has been compelled to leave the home occupied by her and the children and secure a residence in Fairhope so that she could have said children cared for while she was working in her present employment in Brookley Field, that she on March 17, 1951, married a man of a substantial and well respected family of this county with whom she is living happily, an experience that she did not have while living with Manery.

NINTH: Respondent further shows that while Manery has a remedy in both law and Equity for his alleged wrongs, his bill shows no effort on his part to resort to such remedies or any effect or intent to determine the interests of the parties concerned.

WHEREFORE; Respondent prays that the bill praying an injunction be discharged that said injunction be dissolved, and she be permitted to go hence with her reasonable costs and damages in this behalf expended.

Una Mae Lowell

Special Respondent

Risley & Risley
Solicitors for Respondent

STATE OF ALABAMA:
BALDWIN COUNTY:

Before me, the undersigned authority, personally appeared Una Mae Lowell, who, being sworn says that the matters set out in the foregoing bill are true.

Una Mae Lowell

Subscribed and sworn to before me this the 20th day of June 1951.

Elliott B. Risley

Notary Public, State of Alabama at Large.