

T. W. RICHARDSON,
Complainant and
Cross-Respondent

vs.

JAMES W. ROUNTREE,
Respondent and
Cross-Complainant

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY,
* ALABAMA

* IN EQUITY

* No. 3272
*

DECREE

THIS CAUSE, having been submitted upon all of the pleadings in the case, and the Exhibits thereto, and the evidence as shown by the Note of Evidence on file, and

IT APPEARING TO THE COURT from the pleadings in the case, the exhibits thereto, and the testimony, that on, to-wit, November 4, 1938 James W. Gray et al conveyed the parcel of real property described in the bill of complaint to the Complainant and Cross-Respondent and one George H. Faulk subject to the terms, limitations and conditions set forth in the instrument of conveyance, copy of which is attached to the bill of complaint as Exhibit "A"; that by mesne conveyances, each of which is subject to the terms, conditions and limitations contained in said Exhibit "A", such mesne conveyances being attached to the bill of complaint as Exhibits "B", "C" and "D", respectively, the interest of said Faulk in said real property described in the bill was conveyed to the Complainant and Cross-Respondent; that on, to-wit, March 24, 1954 the said James W. Gray et al by written instrument, copy of which is attached to the bill of complaint as Exhibit "E" conveyed to James W. Rountree, the Respondent and Cross-Complainant, all of their right, title, interest and claim in and to said real property and did transfer, assign, set over and convey unto the said Respondent and Cross-Complainant all of the rights and options to repurchase the

said real property reserved unto the said James W. Gray et al in Exhibit "A", and all right, title and interest in and to the trapping rights described therein, and

IT FURTHER APPEARING TO THE COURT that the said James W. Gray et al in said Exhibit "A" did convey said real property subject to the terms, conditions and limitations therein set forth, which are as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described.

It is further expressly agreed and understood that the grantors reserve all of the oil, gas or other minerals in and under and that may be produced from the above described lands, and the said grantors do further reserve the rights of ingress and egress for drilling and producing and mining purposes and the use of the surface for the same," and

IT FURTHER APPEARING TO THE COURT that the Respondent and Cross Complainant has exercised the option to re-purchase the said real property on the terms and at the price set forth in said Exhibit "A", and that Respondent and Cross-Complainant

is ready, willing and able so to do and to comply fully with the said option,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the Court has jurisdiction of this cause and of the parties and the said real property hereinafter described, which is situated in Baldwin County, Alabama, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly at right angles to said center line one hundred fifty feet to the North right of way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian, and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the option to re-purchase the said real property is valid and binding; that James W. Rountree, the Respondent and Cross-Complainant, is vested with and is the owner of such right of re-purchase on the terms and conditions provided in Exhibit "A", and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that no permanent improvements have been erected on said real property BY the Grantees in Exhibit "A", their heirs or assigns, including the Complainant and Cross-Respondent; that said real property is not the homestead of Complainant and Cross-Respondent; and that the Complainant and Cross-Respondent

is entitled to have and receive from the Respondent and Cross Complainant the sum of Three Hundred (\$300.00) Dollars, plus six percent (6%) interest thereon, from the date of said "Exhibit A", to-wit, November 4, 1938 to the date of this Decree, which the Court fixes and ascertains to be the sum of Three Hundred (\$300.00) Dollars principal and Four Hundred Twenty-seven and 50/100 (\$427.50) Dollars interest, being a total of Seven Hundred Twenty-seven and 50/100 (\$727.50.) Dollars, which sum of money the Respondent and Cross Complainant has paid in to the Register of this Court, and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court, that the legal and equitable title in and to said real property described in the bill of complaint, which is also hereinafter described, is hereby divested out of the Complainant and Cross Respondent T. W. Richardson, and is hereby invested in the Respondent and Cross Complainant, James W. Rountree, his heirs and assigns, and upon receipt of the costs of Court of this proceedings, which are hereby taxed against the Respondent and Cross Complainant, the Register of the Court shall forthwith execute and deliver to the said James W. Rountree, his heirs and assigns, a good and sufficient deed to said real property, conveying to him all of the right, title and interest which the said T. W. Richardson held at the time of the institution of this suit in this Court and which the said T. W. Richardson now has in and to said real property, the said real property being situated in Baldwin County, Alabama, and being particularly described as follows, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly

at right angles to said center line one hundred fifty feet to the North right of way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East Six Hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West Six Hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

DATED at Bay Minette in Baldwin County, Alabama,
this 3 day of August, 1962.

FILED

AUG 4 1962

ALICE J. DUCK, CLERK REGISTER

Habue M. Stone

Circuit Judge

Respondent further avers that the said George D. Argiro entered into such written lease, if such lease was executed, with full knowledge of the provisions contained in the deed, copy of which is identified as "Exhibit A", in that the said George D. Argiro prior to May 1, 1954, sought to purchase and offered to purchase the said real property from James W. Gray, et al, Grantors in that certain deed, copy of which is identified as "Exhibit A", the said James W. Gray, et al having, on March 24, 1954, executed and delivered that certain instrument, copy of which is attached to the bill of complaint and identified as "Exhibit F", transferring and conveying therein to Respondent certain rights reserved unto themselves in said "Exhibit A", including the right to repurchase the said real property on the terms and conditions set forth in said "Exhibit A".

4. Respondent admits that James W. Gray, et al, in that certain deed to Complainant and George H. Faulk, copy of which is identified as "Exhibit A", reserved an option to repurchase the property in words and figures as set forth in paragraph 4; and admits that James W. Gray, et al, executed and delivered that certain deed, copy of which is attached to the bill of complaint and marked "Exhibit E", conveying therein unto Respondent the right of repurchase of said real property as set forth in said instrument. Respondent denies that the right and option to re-purchase the property reserved in the conveyance to Faulk and the Complainant is void, and avers that said right of re-purchase is vested in Respondent, that the same is legal and valid, and that the Complainant is equitably obligated to comply with the same on the terms and conditions set forth in that certain deed, copy of which is identified as "Exhibit A". Respondent denies the remaining averments in paragraph 4.

5. Respondent denies there is a justiciable controversy between Complainant and Respondent concerning the construction of the reservations in that certain deed, copy of which is

identified as "Exhibit A", and Respondent avers that he holds lawful, valid and existing right of re-purchase of said real property described in "Exhibit A".

6. For further answer to said bill, and separately as to each paragraph thereof, as well as by way of cross-bill, this Respondent and Cross Complainant avers that prior to the execution of the instrument, copy of which is identified as "Exhibit A", the said T. W. Richardson, Complainant and Cross Respondent, and the said George H. Faulk proposed and offered to lease the said real property, described in the said bill of complaint in the second paragraph, for a term of not less than, to-wit, two years, from James W. Gray, et al, the Complainant stating that he and Faulk desired possession of the property only and that such possession was desired for a minimum period of, to-wit, two years. Respondent and Cross Complainant aversthat the said James W. Gray informed and advised the said Richardson and Faulk that he and his people were reluctant to lease the said real property to the said Richardson and Faulk because of the possibility of use of the said real property for an illegal purpose, to-wit, gambling; that the said Richardson, Complainant and Cross Respondent, and Faulk proposed to the said James W. Gray that instead of leasing the property to them that the instrument be written up as a deed with an option to James W. Gray et al to re-purchase the said real property after two years possession by the said Richardson and Faulk; that James W. Gray stated to the said Richardson and Faulk that he and his people were unwilling to sell the said parcel of real property, desiring to retain title and ownership thereof together with title and ownership of real property immediately adjoining the same for ultimate sale of all of the property as a unit; that said Richardson and Faulk stated to the said Gray that the said Gray and his people would

not really be selling the property because they would have the right to re-purchase the same after Richardson and Faulk had had possession for two years; that the said Richardson and Faulk and the said James W. Gray, who was then and there acting as agent for the additional owners of said parcel of real property, agreed that the instrument to the said Richardson and Faulk would be written up as a deed of conveyance and that such instrument would contain a legal, valid and enforceable right of re-purchase of said real property. Respondent and Cross Complainant further avers that the parties who executed the instrument, copy of which is identified as "Exhibit A", intended that the Grantors therein and their assigns would have a legal and valid right to re-purchase the said real property.

7. Your Respondent and Cross Complainant further alleges that if the said right to re-purchase the said real property from the Complainant and Cross Respondent be void, that the entire instrument from James W. Gray, et al, to George H. Faulk and Complainant and Cross Respondent is void and of no force and effect except as to the obligation to make monetary repayment to the Complainant and Cross Respondent as provided therein.

8. Respondent and Cross Complainant further avers that if the right of re-purchase reserved in that certain instrument, copy of which is identified as "Exhibit A", be void, that such written instrument through mistake contains substantially more for the Complainant and substantially less than James W. Gray, et al, the parties to such instrument, intended, both the Grantors and the Grantees in such instrument intending to vest in the Grantors lawful and valid right of re-purchase, and such mistake was a mutual mistake of the parties.

9. Respondent and Cross Complainant further avers that if the right of re-purchase reserved in that certain instrument, copy of which is identified as "Exhibit A", be void, that such written instrument failed through the use of inapt expression of the scrivener to reserve to the Grantors therein valid and lawful right of re-purchase according to the intention and the agreement of the said parties.

10. Respondent and Cross Complainant further alleges that the said Complainant and Cross Respondent and the said Faulk proposed and suggested to the said James W. Gray, et al, that possession of the said real property be delivered to them under the form of a conveyance containing the valid right of re-purchase, in lieu of a lease, and that Complainant and Cross Respondent is estopped in equity and good conscience from using the Court of Equity to avoid the re-purchase of said real property, which he himself proposed, as a valid right of re-purchase; and that to permit the Complainant and Cross Respondent to make use of the Court of Equity to void such re-purchase agreement would be equivalent to the Complainant having the Court of Equity aid him in the perpetration of a fraud in escaping from the re-purchase aspect of the agreement which he proposed and thereby to acquire complete ownership of said real property.

11. Respondent and Cross Complainant further alleges that Complainant and Cross Respondent has come into this Court of Equity with unclean hands in that he himself proposed that the Grantors in said instrument, copy of which is identified as "Exhibit A", should have valid and lawful right of re-purchase of said real property, and seeks the aid of Equity in his bill of complaint in declaring void the portion of his proposal, which was agreed to, which he considered disadvantageous unto himself; and Respondent and Cross Complainant avers that Complainant and Cross Respondent has no equitable right to ask this Court of Equity to declare such right of re-purchase as void

because of his unclean hands.

12. Respondent and Cross Complainant further alleges that he is ready, able and willing, and is now ready, able and willing, to comply with the terms of said instrument, copy of which is identified as "Exhibit A", in making such payment or payments to Complainant, if any, in such amount as may be determined to be justly and equitably due to the Complainant and Cross Respondent, and Respondent and Cross Complainant now submits himself to the jurisdiction of this Court of Equity and is ready and willing, and now offers to do full equity in the premises.

PRAYER FOR RELIEF

Respondent prays that his answer be taken as a cross-bill to be heard at the same time as the original bill, and that T. W. Richardson be made a cross-respondent to said cross-bill under the rules and regulations provided by law.

Respondent further prays that upon final hearing of this cause Your Honor will make and enter a decree granting relief to your Respondent as follows:

1. Ascertaining and declaring that Respondent is the owner of the lawful, valid and existing right to purchase, or re-purchase, the said real property from the Complainant, and that it be decreed by this Court that the said T. W. Richardson execute and deliver to Respondent a deed conveying said real property to Respondent upon payment to him, or into this Honorable Court for him, of such sum of money as may be owing for such purpose under the terms of the deed copy of which is identified as "Exhibit A"; and in the event the said T. W. Richardson fails or refuses to execute such deed Respondent respectfully prays that this Honorable Court will decree that a deed conveying his title in the

above described property be executed by the Register to Respondent.

2. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent prays that if he is mistaken in asking for the above relief, that the Court will make and enter a decree declaring the instrument, copy of which is identified as "Exhibit A", to be totally void, and that Respondent is the owner of said real property, subject to such equitable rights of reimbursement as the Court shall determine in favor of the said T. W. Richardson.

3. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent prays that if he is mistaken in asking for said relief, that the Court will make and enter a decree reforming the deed hereinabove referred to, copy of which is identified as "Exhibit A", to the bill of complaint, by including therein valid and legal right of re-purchase of said real property from the Complainant by Your Respondent, subject to such equitable right of reimbursement as the Court shall determine in favor of the said Complainant.

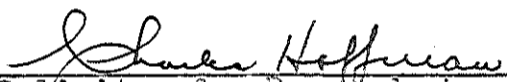
4. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he be mistaken in asking for the relief prayed for hereinabove, that this Honorable Court will make and enter a decree that the Complainant is estopped from asserting and maintaining that the right of re-purchase reserved in that certain instrument, copy of which is identified as "Exhibit A", is void.

5. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he is mistaken in asking for the relief prayed for

hereinabove, Respondent prays that Your Honors will make and enter a decree that Complainant is without equitable right to have the right of re-purchase declared void and that Respondent is vested with valid and lawful right of re-purchase of said real property, subject to equitable monetary reimbursement to the said Complainant.

6. That a Reference be ordered by the Court to Register of this Court or other such proceedings be had as may be appropriate to the granting of the relief herein prayed for by Respondent.

And Your Respondent prays for such other, further, and different relief as in equity and good conscience the Respondent is entitled to receive, the premises considered.


Solicitor for Respondent

T. W. RICHARDSON,	:	IN THE CIRCUIT COURT OF
COMPLAINANT	:	BALDWIN COUNTY,
VS.	:	ALABAMA
JAMES W. ROUNTREE,	:	IN EQUITY NO. 3272
RESPONDENT	:	

Comes the Respondent and Cross Complainant in the above entitled cause, and does hereby, with leave of Court, file the following amended cross bill against the Complainant and Cross Respondent, and avers as follows:

1. Respondent and Cross Complainant avers that on, to-wit, November 4, 1938 James W. Gray, et al conveyed the parcel of real property described in the bill of complaint to the Complainant and Cross Respondent and one George H. Faulk subject to the terms, limitations and conditions set forth in the instrument of conveyance, copy of which is attached to the bill of complaint, marked Exhibit "A" and by reference is made a part hereof; that mesne conveyances, each of which is subject to the terms, limitations and conditions contained in said instrument attached to the bill of complaint and marked Exhibit "A", copies of such mesne conveyances being attached to the bill of complaint and marked, respectively, Exhibits "B", "C", and "D", the real property described in the bill of complaint was conveyed to the Complainant and Cross Respondent; that on, to-wit, March 24, 1954 the said James W. Gray, et al, by written instrument copy of which is attached to the bill of complaint, marked Exhibit "E" and by reference is made a part hereof, conveyed to Respondent and Cross Complainant all of their right, title, interest and claim in and to the real property therein described and which is also described in the bill of complaint, and did transfer, assign, set over and convey unto the said Respondent and Cross Complainant all of the rights and option to re-purchase the said real property reserved unto

the said James W. Gray, et al in that certain instrument of conveyance, copy of which is attached to the bill of complaint, and marked Exhibit "A" and all right, title and interest in and to the trapping rights described therein.

2. Respondent and Cross Complainant further avers that the said James W. Gray, et al, in said written instrument copy of which is attached to the bill of complaint and marked Exhibit "A" did in the granting clause and habendum clause convey the said real property described therein and in the bill of complaint subject to the terms, limitations and conditions therein set forth, which terms, limitations and conditions are as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described.

It is further expressly agreed and understood that the grantors reserve all of the oil, gas or other minerals in and under and that may be produced from the above described lands, and the said grantors do further reserve the rights of ingress and egress for drilling and producing and mining purposes and the use of the surface for the same."

3. Respondent and cross Complainant further avers that on, to-wit, the 12th day of June, 1954, the Complainant and cross Respondent did file in this Court the said bill of complaint, therein alleging that the right and option to purchase the said real property described in the bill of complaint reserved in the

conveyance copy of which is attached to the bill of complaint and marked Exhibit "A" is void and that the said deed from James W. Gray, et al to Respondent and Cross Complainant, copy of which is attached to the bill of complaint and marked Exhibit "E", is of no force and effect except to convey to the Respondent and Cross Complainant the trapping rights on the property described in said instrument.

4. Respondent and Cross Complainant further avers has exercised and that he/does hereby exercise the said option to re-purchase the said real property described in the bill of complaint on the terms and at the price set forth in said written instrument copy of which is attached to the bill of complaint and marked Exhibit "A", and does hereby make offer so to do and to pay in cash the sum provided therein, to the Complainant and Cross Respondent, and that Respondent and Cross Complainant is ready, willing and able, and is now ready, willing and able so to do and to comply fully with the terms of said instrument, copy of which is attached to the bill of complaint and identified as Exhibit "A" in making such payment or payments to Complainant and Cross Respondent, in such amount as may be determined to be justly and equitably due to Complainant and Cross Respondent; and Respondent and Cross Complainant now submits himself to the jurisdiction of this Court of Equity and is ready and willing, and now offers to do, full equity in the premises.

PRAYER

Respondent and Cross Complainant prays that this cross bill be filed in said cause as further answer to said bill of complaint, and to each paragraph and aspect thereof separately and severally, and that T. W. Richardson be made a Cross Respondent hereto under the rules and regulations provided by law.

Respondent and Cross Complainant further prays that upon a final hearing of this cause this Honorable Court will be pleased to decree specifically, performance by the Complainant and Cross Respondent, T. W. Richardson, of his said written contract, copy of which is attached to the bill of complaint and marked "Exhibit A", and that it be decreed by this Court that the said T. W. Richardson execute and deliver to the Respondent an instrument of conveyance upon the payment to him, or into this Honorable Court for him, of such sum of money ascertained to be payable under the terms of said written contract, copy of which is attached to the bill of complaint and marked Exhibit "A", and in the event said T. W. Richardson fails or refuses to execute such deed, Respondent respectfully prays that this Honorable Court decree that a deed conveying his title in the said real property described in the bill of complaint be executed by the Register, and Respondent further prays that all such references or other proceedings be had as may be appropriate to the granting of the relief herein sought by the Respondent. Respondent further prays, if he be mistaken in the relief prayed for, for such other, and further relief as he may be entitled to receive, the premises considered.

CAFFEY, GALLALEE AND CAFFEY

BY Wm. C. Caffey

Charles Hoffman

Solicitors for Respondent
and Cross Complainant

CHARLES HOFFMAN
ATTORNEY AT LAW
731-732 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

Dec. 7, 1955

Mrs. Alice J. Duck
Register in Equity
Baldwin County Courthouse
Bay Minette, Ala.

Dear Mrs. Duck,

In Re: Richardson vs Rountree

Please find enclosed in duplicate amended Cross Bill in the above styled case. Judge Hall kindly extended the time for filing the enclosure.

With kindest personal regards, I am

Very truly yours,


Charles Hoffman

ch;hs

THE STATE OF ALABAMA
Baldwin County

Circuit Court

TO: Mrs. Mary Betty,
717 First National Bank Building,
Mobile, Alabama

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
James W. Roundtree

a witness in behalf of Respondent and Cross Complainant in a cause pending in our
Circuit Court in Baldwin County, of said State, wherein

T. W. RICHERSON

, Complainant

and JAMES W. ROUNDTREE

Respondent

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

Witness 2nd day of July

, 19 62

Alice J. ...
Register

Commissioner's Fee, \$

Witness' Fees, \$

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL
CIRCUIT OF ALABAMA

T. W. RICHARDSON,	:	IN THE CIRCUIT COURT OF
COMPLAINANT	:	BALDWIN COUNTY,
VS.	:	ALABAMA
JAMES W. ROUNTREE,	:	IN EQUITY
RESPONDENT	:	NO. 3272

DEMURRER TO THE BILL OF COMPLAINT

Comes now James W. Rountree, Respondent in the above entitled cause and demurs to the bill of complaint and to each aspect, section and paragraph thereof, separately and severally, and as grounds for such demurrer assigns, separately and severally, the following:

1. There is no equity in the bill.
2. Sufficient facts are not alleged therein to entitle Complainant to relief.
3. Sufficient facts are not alleged therein to entitle Complainant to the relief sought therein.
4. Sufficient facts are not alleged therein to show a justiciable controversy.
5. The allegation that there is a justiciable controversy between the Complainant and Respondent concerning the construction of the reservations contained in the deed, which is attached to the bill and marked "Exhibit A" is a mere conclusion of the pleader.
6. Sufficient facts are not alleged therein to show any ambiguity in the deed of conveyance, copy of which is attached to the bill and marked "Exhibit A".
7. For aught appearing to the contrary therefrom, there is no ambiguity in the deed of conveyance, copy of which is attached to the bill and marked "Exhibit A".

8. The allegation contained therein that the Grantors in the deed of conveyance, copy of which is attached to the bill and marked "Exhibit A", attempted to reserve unto themselves and unto their heirs and assigns an option to re-purchase the real property described in such deed and the improvements, is a mere conclusion of the pleader.

9. It affirmatively appears that the right and option to re-purchase reserved in the deed, copy of which is attached to the bill and marked "Exhibit A", is clear and unambiguous.

10. It affirmatively appears that the right and option to re-purchase the real property described in the deed attached to the bill which is marked "Exhibit A" is a good, sufficient and binding option to re-purchase such real property.

11. The allegation contained therein that the right and option to re-purchase the real property described in "Exhibit A" is void, is a mere conclusion of the pleader.

12. Sufficient facts are not alleged therein to show that the deed of conveyance, copy of which is attached to the bill and marked "Exhibit A", is void.

13. It affirmatively appears therefrom that the right and option to re-purchase reserved in the conveyance to the Complainant and George H. Faulk, set forth in "Exhibit A", is valid and binding upon the Complainant.

14. For aught appearing to the contrary, Respondent is vested with good, valid and binding right and option to re-purchase the real property described in the bill.

15. For that it affirmatively appears therefrom that the Respondent is vested with good and valid right and option to re-purchase the real property described in the bill.

16. For that it affirmatively appears from the deeds of conveyance, copies of which are attached to the bill and marked "Exhibits A, B, C, and D" that Complainant has for more than twenty (20) years recognized the right or option to re-purchase contained in the deed of conveyance from Gray et al

to Richardson and Faulk, copy of which is attached to the bill and marked "Exhibit A".

17. For that it affirmatively appears therefrom that Complainant is estopped to deny the validity of the right of re-purchase contained in the deed of conveyance from Gray et al to Faulk and Richardson, copy of which is attached to the bill and marked "Exhibit A".

18. For that it affirmatively appears therefrom that Complainant is estopped to assert that the right or option of re-purchase contained in the deed of conveyance from Gray et al to Faulk and Richardson is void, copy of such deed of conveyance being attached to the bill and marked "Exhibit A".

19. For that it affirmatively appears that Complainant is estopped to deny the validity of the right or option of re-purchase contained in the deed of conveyance from Gray et al to Faulk and Richardson, copy of which is attached to the bill and marked "Exhibit A", for that Richardson accepted one-half ($\frac{1}{2}$) undivided interest in the real property under such deed of conveyance, Exhibit A; and Richardson accepted deed of conveyance from Faulk of an undivided one-half ($\frac{1}{2}$) interest in and to such property, Exhibit B; and Richardson conveyed to Roberts subject to such right or option of re-purchase, Exhibit C; and Richardson accepted conveyance of an undivided one-half ($\frac{1}{2}$) interest in such real property from Roberts, Exhibit D.

20. For that it affirmatively appears that Complainant is estopped to assert that the right or option of re-purchase contained in the deed of conveyance from Gray et al to Faulk and Richardson is void, copy of such conveyance being attached to the bill and marked "Exhibit A", for that Richardson accepted one-half ($\frac{1}{2}$) undivided interest in the real property under such deed of conveyance, Exhibit A; and Richardson accepted deed of

conveyance from Faulk of an undivided one-half ($\frac{1}{2}$) interest in and to such property, Exhibit B; and Richardson conveyed to Roberts subject to such right or option of re-purchase, Exhibit C; and Richardson accepted conveyance of an undivided one-half ($\frac{1}{2}$) interest in such real property from Roberts, Exhibit D.

Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to declare void the option to re-purchase reserved in the deed of conveyance from Gray et al to Faulk and Complainant, a copy of which is attached to the bill and marked "Exhibit A", and as grounds for such demurrer assigns, separately and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.

Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to construe and declare the legal effect of the deed of conveyance, a copy of which is attached to the bill and marked "Exhibit A", and as grounds for such demurrer, assigns, separately and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.

Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to ascertain and declare the rights to which Complainant's title to the property described in the bill is subject, and as grounds for such demurrer, assigns, separately and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.

Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to ascertain and declare that Complainant is the owner of the fee simple title to the property described in the bill subject only to the rights specifically enumerated in the bill, and as grounds for such demurrer, assigns, separately and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.

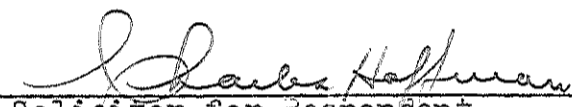
Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to ascertain and declare that on March 24, 1954, the Grantors in that certain conveyance, a copy of which is attached to the bill and marked "Exhibit E", did not own any right, title, interest or claim in and to the land described in the bill other than trapping rights and the title to the oil, gas and minerals located in and under said property and the right of ingress and egress for the purpose of developing the same, and as grounds for such demurrer, assigns, separately and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.

Comes now the above named Respondent, and separately demurs to that aspect or phase of the bill of complaint wherein it is sought to ascertain and declare that George D. Argiro, the lessee of Complainant, is entitled to the possession of the real property described in the bill under a lease from Complainant, and that Respondent is not entitled to the possession of said property except in the reasonable exercise of the trapping rights conveyed to him on March 24, 1954, and as grounds for such demurrer, assigns, separately

and severally, the grounds numbered 1 through 20, both inclusive, hereinabove set out as and for the grounds of demurrer to this aspect or phase of said bill of complaint.


Solicitor for Respondent

I hereby certify that I have on this 14th day of July, 1954 forwarded a copy of the enclosed demurrer to Chason and Stone, Attorneys for the Complainant, Bay Minette, Alabama, postage prepaid.


Solicitor for Respondent

T. W. RICHARDSON

No. 3272 VS.

JAMES W. ROUNTREE

Entered on _____
Min. Book No. _____ Entry _____
~~W. F. Rountree & Co. Register~~

ORDER OF SUBMISSION

This cause coming on to be heard, is submitted for decree on the pleadings and on the proof as noted.

Dated,

NOTE OF EVIDENCE

At the hearing of this cause the following note of evidence was taken to wit:

FOR COMPLAINANT and Cross-Respondent

- 1. Bill of Complaint and all exhibits thereto.

FILED, 7-31-62
Deirdre J. Reich Register

Solicitor—for Complainant
and Cross-Respondent

FOR RESPONDENT and Cross-Complainant

- 1. Answer
- 2. Amended Answer
- 3. Cross Bill
- 4. Deposition of James W. Rountree and all Exhibits introduced in evidence (which are the Exhibits to the Bill of Complaint).

CAFFEY, GALLALEE & CAFFEY

By *W. J. Caffey*
Solicitor For Respondent and
Cross-Complainant

T. W. RICHARDSON,

Complainant and
Cross-Respondent

vs.

JAMES W. ROUNTREE,

Respondent and
Cross-Complainant

*

IN THE CIRCUIT COURT OF

*

BALDWIN COUNTY,

ALABAMA

*

IN EQUITY

*

NO. 3272

*

AN ORDER OF REINSTATEMENT

Good cause therefor having been shown by the parties and on written agreement on file in this cause, it is,

ORDERED, ADJUDGED AND DECREED BY THE COURT that the Order dated the 21 day of May, 1961 dismissing said cause be and it hereby is rescinded and voided, and the cause be, and is hereby, restored and reinstated on the docket of the Court in all respects; and such reinstatement shall have the effect of refiling all pleadings and reinstatement of all orders, judgments and decrees in connection therewith and in relation thereto, except for said Order of Dismissal described above.

Dated this 22 day of ^{June} ~~March~~, 1962.

Hubert M. Stone
Circuit Judge

*Filed
6-22-62
Hubert M. Stone
Circuit Judge*

T. W. RICHARDSON	)	IN THE CIRCUIT COURT OF BALDWIN
Complainant and	)	COUNTY, ALABAMA
Cross-Respondent)	
vs.	)	IN EQUITY
JAMES W. ROUNTREE)	
Respondent and)	
Cross-Complainant	)	No. 3272

Come the parties in the above-styled cause and consent, stipulate and agree that the order of the Court entered, to-wit, 21 day of May, 1961, which order dismisses this cause for want of prosecution, be rescinded and avoided and that the above-styled cause be restored to the docket of this Court and fully reinstated thereon in all respects; and that such restoration have and receive by this consent and agreement the effect of re-filing and reinstatement of all pleadings in such cause and all rulings, orders and decrees thereon and in connection therewith, with the exception of said order of dismissal described above.

Malcolm P. Stone Jr.
Solicitor for the Complainant and
Cross-Respondent
Charles Hoffmann
Caffey, Gallatee & Caffey
By: W. H. Caffey Jr.
Solicitors for the Respondent and
Cross-Complainant

The State of Alabama
Baldwin County

IN THE CHANCERY COURT OF BALDWIN COUNTY

To T. W. Richardson

Or To Chason & Stone, Solicitors of record.

Whereas, on the 5th day of March, 1956,

James W. Rountree

took an appeal from the decree rendered on the 16th day of February

1956, by the Circuit Court of said county, in the cause of _____

T. W. RICHARDSON

versus _____

JAMES W. ROUNTREE

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

Witness my hand this 6th day of March, 1956

Alice J. ...
Register in Chancery.

No 7150

W. R. STUART
PROBATE JUDGE

Bay Minette, Ala., 9-5, 1962

Received of Alice J. Duck, Clerk

No.		Deed Tax		Mortgage Tax		Mineral Documentary Tax		Recording Fees		Total	
		\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.
	Richardson vs Reuntra		1 00					2 25		3 25	
	" "							4 25		4 25	

FOR RECORD

F. S. H.—BIRMINGHAM

W. R. Stuart
W. R. Stuart
Judge of Probate.

TOTAL \$ 7 50

Judge of Probate.

The State of Alabama
Baldwin County

IN THE CHANCERY COURT OF BALDWIN COUNTY

To T. W. Richardson

Or To Chason & Stone, Solicitors of record.

Whereas, on the 5th day of March, 1956,
James W. Rountree

took an appeal from the decree rendered on the 16th day of February
1956, by the Circuit Court of said county, in the cause of

T. W. RICHARDSON

versus

JAMES W. ROUNTREE

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

Witness my hand this 6th day of March, 1956

W. J. Francis
Register in Chancery.

24

No. 3272

T. W. RICHARDSON Complainant

vs.

JAMES W. ROUNTREE Respondent

CITATION OF APPEAL

IN EQUITY

serve on
Charlottesville

Issued _____ day of _____ 193

Moore Ptg. Co., Bay Minette

CITATION OF APPEAL
The State of Alabama
Baldwin County
IN THE CHANCERY COURT OF BALDWIN COUNTY
To _____
I, _____
Address _____
On _____ day of _____ 19____
I have served a copy of the within _____
_____ Citation _____
_____ Mason & Stone _____
service on _____

TAYLOR WILKINS, Sheriff
By _____ D. S.

0 miles

Alabama, to defend on said appeal, if you think proper so to do.
Now, therefore, you are cited to appear as required by law, before the Supreme Court of
Alabama, to defend on said appeal, if you think proper so to do.
Witness my hand this _____ day of _____ 19____
_____ Register in Chancery.

T. W. RICHARDSON,
Complainant and
Cross- Respondent

vs.

JAMES W. ROUNTREE,
Respondent and
Cross-Complainant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

IN EQUITY NO. 3272

Comes the Respondent and Cross-Complainant and appeals to the Supreme Court of Alabama from the Decree of the Court rendered on the 16th day of February, 1956, sustaining demurrer to Amended Cross-Bill of Respondent and Cross-Complainant.

Charles Hoffman
Coffey Gallahue Coffey
Attorneys for Respondent and
Cross-Complainant

We, the undersigned, hereby acknowledge ourselves security for all costs of appeal to the Supreme Court of Alabama from the Decree rendered in the above entitled cause on the 16th day of February, 1956; and hereby agree to pay all such costs. And for the payment of this bond, we hereby waive our right of exemption to personal property under the Constitution and Laws of the State of Alabama.

WITNESS our hands and seals, this the 5th day of March, 1956.

James W. Rountree (SEAL)
MARYLAND CASUALTY COMPANY
[Signature] (SEAL)
Attorney in Fact
[Signature] (SEAL)

Taken and
approved, this
5th day of
March, 1956.

[Signature]
Register

JAN 8 1959

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1958-59

1 Div. 669

James W. Rountree

v.

T. W. Richardson

Appeal from Baldwin Circuit Court, In Equity

GOODWYN, JUSTICE.

This is an appeal by the cross-complainant (respondent) from a decree of the circuit court of Baldwin County, in equity, sustaining cross-respondent's (complainant's) demurrer to his cross-bill.

2.

By statutory warranty deed dated November 4, 1938, James W. Gray and others conveyed to one George H. Faulk and T. W. Richardson (original complainant, cross-respondent and appellee) a tract of land containing about three acres abutting the right-of-way of the Cochrane Bridge causeway in Baldwin County. The granting clause provides that the conveyance is

" * * * subject to the terms, limitations and conditions hereinafter set forth, * * * ."

The habendum clause sets out the terms, limitations and conditions, to the extent pertinent to the question before us, as follows:

"TO HAVE AND TO HOLD the same unto the said George H. Faulk and T. W. Richardson, their heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the

3.

date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00."

[Emphasis supplied.]

By statutory warranty deed dated July 24, 1939, George H. Faulk and wife conveyed their interest in the land to T. W. Richardson. The granting clause in that deed, as in the deed from James W. Gray and

4.

others, provides that the conveyance is

" * * * subject to the terms,
limitations and conditions herein-
after set forth, * * * ."

The habendum clause in said deed from Faulk to
Richardson sets out the terms, limitations and conditions,
to the extent here pertinent, as follows:

"To have and to hold the same unto
the said T. W. Richardson, his heirs
and assigns, subject to the terms,
limitations and conditions hereinafter
set forth.

"It is expressly agreed and understood
between the parties hereto that the said
George H. Faulk and his wife are only conveying
to the said T. W. Richardson such rights in the
said property as were acquired by the said George
H. Faulk under that certain deed from James W.
Gray et al., to George H. Faulk and T. W. Richardson
dated the 4th day of November, 1938, and that this
conveyance is made subject to the restrictions and
conditions contained in the said conveyance from
James W. Gray, et al., to George H. Faulk, and T. W.
Richardson, as follows: [Here is set out the same
condition as that contained in the deed from James

5.

W. Gray and others, quoted above, reserving option to repurchase, and also the other conditions contained in said deed which are not here involved.]

On July 25, 1939, Richardson conveyed an undivided one-half interest in the land to E. J. Roberts. On October 9, 1941, E. J. Roberts and wife reconveyed said undivided one-half interest to Richardson. Both of said deeds were expressly made "subject to the restrictions and conditions contained in the said conveyance from James W. Gray, et al., to George H. Faulk and T. W. Richardson", dated November 4, 1938.

On March 24, 1954, the Gray interests sold and conveyed to James W. Rountree, appellant (respondent and cross-complainant below), "all of their right, title, interest in and claim in and to" the tract of land here involved and also transferred, assigned, set over and conveyed to the said Rountree "all of their rights and option to repurchase reserved" unto them in their conveyance to George H. Faulk and T. W. Richardson under date of November 4, 1938.

On June 12, 1954, the appellee, T. W. Richardson, filed his bill for a declaratory judgment. The primary purpose of the bill was to have the repurchase option in the deed from Gray and others to Faulk and Richardson, above quoted, declared void and of no effect. The trial court, on demurrer, upheld complainant's bill for a declaratory judgment.

Respondent Rountree then filed a cross-bill. As last amended, it alleges essentially the facts as set out above.

6.

It also alleges that cross-complainant "has exercised and does hereby exercise the said option to repurchase the said real property described in the bill of complaint on the terms and at the price set forth" therein, and "does hereby make offer so to do and to pay in cash the sum provided therein, to the complainant and cross-respondent", and "is ready, willing and able and is now ready, willing and able so to do and to comply fully with the terms of said instrument * * * in making such payment or payments to complainant and cross-respondent, in such amount as may be determined to be justly and equitably due." The prayer, in substance, is for specific performance of the option to repurchase.

This appeal is from the decree sustaining Richardson's demurrer to the amended cross-bill.

The decisive question presented on this appeal is whether the provision in the deed from Gray and others to Faulk and Richardson whereby the grantors and their assigns are given the option to repurchase is void and of no effect because it violates the common law rule against perpetuities (Henderson v. Troy Bank & Trust Co., 250 Ala. 456, 465(2), 34 So. 2d 835; 41 Am. Jur., Perpetuities, § 4, p. 52; 70 C.J.S., Perpetuities, § 3, p. 577), that is, it prescribes an indefinite period which may extend beyond twenty-one years (there being no reference to some life in being) in which the option may be exercised. Code 1940, Tit. 47, § 16, provides that the "common law rule against perpetuities as to land, shall be in full force and effect in this

7.

state so that the rule against perpetuities applicable to personal property and to land shall be the same." (Section 16, Tit. 47, is derived from Act No. 684, appvd. July 31, 1931, Gen. Acts 1931, p. 816, which also repealed § 6922, Code 1923. Section 6922 provided that "conveyances to other than the wife and children, or children only, cannot extend beyond three lives in being at the date of the conveyance, and ten years thereafter.")

It seems to us that what was said in the fairly recent case of Dozier v. Troy Drive-In-Theatres, 265 Ala. 93, 104-105, 89 So. 2d 537, is dispositive of the question now before us. In that case Dozier leased a nine-acre tract of land to Carter for 99 years. The lease contained the following provisions, among others not here pertinent, viz:

"The said M. H. Carter, his successors and assigns, shall have the option and right to buy said lands above described for the sum of \$3,000.00 after said lease has been in effect for one year.

"The said M. H. Carter, shall have the right to sell and transfer all of his right, title and interest in this lease to any corporation in which he is a stockholder at the time of said transfer.

* * * *

"It is further mutually agreed that any assignee of this lease who purchases the lands

8.

described herein shall not sell the same until L. L. Dozier has refused to buy the same for a period of thirty days for the sum of \$3,000.00.

"It is further mutually agreed and understood that the lands hereinabove described shall be used for a Drive-In Theatre and for no other commercial purpose. It is further agreed that in case said property is used for any other commercial purpose, then the said L. L. Dozier shall have the right to repurchase said lands at any time within six months thereafter for the sum of \$3,000.00 cash."

Carter assigned the lease to Troy Drive-In-Theatres, Inc., a corporation organized by him. After the lease had been in effect for one year the corporation, through Carter as its president, sought to take up the option and buy the land. Dozier contended that the lessee's (and his assignee's) option to purchase was within the statute of frauds and void because of uncertainty and indefiniteness in the description of the land in the lease agreement and was also void because the lessee's option to purchase was violative of the rule against perpetuities. To resolve the issues the corporation-assignee filed a bill against Dozier for declaratory judgment seeking specific performance of the option to purchase and further seeking a declaration that the option to repurchase reserved to the lessor (Dozier) was itself void because violative of the rule

9.

against perpetuities. In speaking to the last question (with which we are here concerned) the court had this to say:

"We think the reservation provided for in the contract here involved is a limitation on the fee to be conveyed, in the nature of a condition subsequent, *Thompson v. Leyden*, 222 Ala. 81, 130 So. 780, which is not affected by the rule against perpetuities because, as stated by the authorities, a valid conveyance can presently be made by the grantor and grantee joining in it. 70 C.J.S., Perpetuities, § 56, p. 657, 70 A.L.R. 1197. For it is said in *French v. Old South Society*, 106 Mass. 497, see, 70 A.L.R. 1198, if a perpetuity means that "if all that have interest join, yet they cannot bar or pass the estate" * * * here is no violation of the rule, for the plaintiff and defendants could at any time join in a conveyance of the property'. This theory is based upon the principle that the purpose of the rule is to prohibit the owner of property, by deed or devise, to withdraw it from commerce, so that it cannot again get into commerce during the prescribed period by the act of any or all of the interested persons. It is then irrevocably withdrawn from commerce and cannot be reinstated during that period.

10.

While that is stated as the meaning of the rule by the Massachusetts case, *supra*, it is not so regarded by some other authorities. Gray on Perpetuities section 305.2. The following is a quotation from *Church in Brattle Square v. Grant*, 3 Gray, Mass., 142, copied in the annotation of *Hinton v. Gilbert*, *supra* [221 Ala. 309, 128 So. 604], 70 A.L.R. at page 1197, and is directly in point:

"The possibility of reverter, being a vested interest in real property, is capable at all times of being released to the person holding the estate on condition, or his grantee, and, if so released, vests an absolute and indefeasible title thereto. The grant or devise of a fee on condition does not, therefore fetter and tie up estates, so as to prevent their alienation, and thus contravene the policy of the law which aims to secure the free and unembarrassed disposition of real property.'

"This theory is supported by many American cases,--Gray on The Rule against Perpetuities, sections 304, 310,--though not approved by Gray. We quote section 310, as follows:

"This great consensus of authority, although without any consideration of the question involved, must be held to settle the law for the United States, and to create in this country an exception, arbitrary though it be, to the Rule against Perpetuities."

"It was first stated as the English rule in *Birmingham Canal Co. v. Cartwright*, (L.R.) 11 Ch. Div. (Eng.) 421. This was overruled in *London and S. W. Co. v. Gomm*, (L.R.) 20 Ch. Div. (Eng.) 562, see 162 A.L.R. 583. According to this last opinion the English rule is that an option reserved in a deed is subject to the rule against perpetuities. But we are standing by the principle first stated in England in the *Cartwright* case, *supra*, that the reservation of a right to repurchase creates a conditional fee, and is a presently reserved vested right in the grantor, although its exercise is dependent on a future contingency.

"In that connection our case of *Hinton v. Gilbert*, *supra*, is reported in 70 A.L.R. 1192 as a leading authority and our case of *Libby v. Winston*, *supra* [207 Ala. 681, 93 So. 631], is noted as supporting it. These cases are based

12.

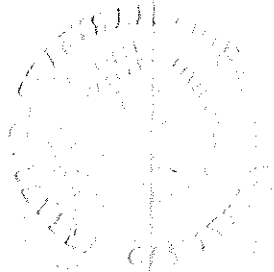
upon a construction of the instrument as conveying a conditional fee, thereby reserving a right which never passed from the grantor but exercisable on a contingency. Therefore, both the grantor and grantee have an interest in the fee which they can convey and thereby relieve the property of the exemption from trade which the rule seeks to prohibit. These cases have created a rule of property in this State which we should uphold."

There may be cogent reasons why an option to repurchase reserved to the grantor in a deed should be subject to the rule against perpetuities or some other limitation as to time for enforcement. But, as noted in the Dozier Case, a rule of property has been created in this state which should be upheld. Whether there is to be a change in such rule addresses itself to the legislature.

The decree appealed from is reversed and the cause remanded for further proceedings.

Reversed and remanded.

Lawson, Simpson and Coleman, JJ., concur.



3272-

23

notice of
Appeal Board.

FILED

MAR 6 1956

ALICE J. BUCK, Register

OFFICES OF
CHARLES HOFFMAN
ATTORNEY AT LAW
SUITE 733, FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

March 13, 1962

Mr. Norborne C. Stone
Chason and Stone
Attorneys at Law
Bay Minette, Ala.

Dear Mr. Stone: In re: Richardson vs. Rountree

In line with our recent conversation, there is enclosed for signature an agreement reinstating the case on the docket of the Court, together with a decree for Judge Hall in connection therewith, which I trust will meet with your approval. If satisfactory, please file the appropriate documents with the Court, and send executed copy of the agreement to me. If you wish to mail all of them back to me, with your signature, I will then forward it back to the Court.

Thank you for your courtesy and cooperation.
With my best wishes, I am,

Very truly yours,

Charles Hoffman
Charles Hoffman

H/r
enc.

Judge. Would you please look this over and, if you find O.K. - sign the attached order.

Norborne

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 669,

James W. Rountree, Appellant

vs.

T. W. Richardson, Appellee,

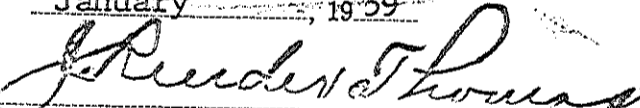
From Baldwin Circuit Court, In Equity Circuit Court.

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

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

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 8th day of

January, 1959


Clerk of the Supreme Court of Alabama

T. W. RICHARDSON, Complainant
and Cross-Respondent

vs.

JAMES W. ROUNTREE, Respondent
and Cross-Complainant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

IN EQUITY NO. 3272

BOOK 004 PAGE 82

Comes the Respondent and Cross-Complainant in the above entitled cause, and the motion of the Complainant and Cross-Respondent to strike the amended answer of the Respondent and Cross-Complainant having been denied, and the demurrer of the Complainant and Cross-Respondent to the amended cross bill of the Respondent and Cross-Complainant having been sustained, does hereby, with leave of Court, file the following amended cross bill against the Complainant and Cross-Respondent, and avers as follows:

First

That Respondent and Cross-Complainant is the owner and holder of the rights of the Grantors in that certain instrument, copy of which is attached to the bill of complaint and marked "Exhibit A", under and pursuant to the terms of the instrument, copy of which is attached to the bill of complaint and identified as "Exhibit E". That Complainant and Cross-Respondent is one of the Grantees in that certain instrument attached to the bill of complaint and identified as "Exhibit A", and is presently the holder of the legal title of the real property described therein and in the Second Paragraph of the bill of complaint, and the Respondent and Cross-Complainant is the owner and holder of the equitable title of said parcel of real property.

Second

Respondent and Cross-Complainant shows that he is the owner and holder of the right to re-purchase the said parcel of real property, and that he does hereby make offer so to do, and is ready, able and willing, and is now ready, able and willing

so to do and to comply with the terms of said instrument, copy of which is identified as "Exhibit A", in making such payment or payments to Complainant and Cross-Respondent, if any, in such amount as may be determined to be justly and equitably due to the Complainant and Cross-Respondent, and Respondent and Cross-Complainant submits himself to the jurisdiction of this Court of Equity and is ready and willing and now offers to do full equity in the said premises.

THIRD

Respondent and Cross-Complainant further shows that prior to the execution of the instrument, copy of which is identified as "Exhibit A", the Complainant and Cross-Respondent and said George H. Faulk, Grantees therein, agreed with James W. Gray, et al, the Grantors therein, that the Grantees would have possession of the said parcel of real property for a minimum period of, to-wit, two (2) years; that because of the possibility of the use of said real property for an illegal purpose, to-wit, gambling, the written instrument was drafted as a deed with option to re-purchase, as appears in the copy which is identified as "Exhibit A"; that the impression and understanding of the parties to said instrument was to establish the possession in the said Grantees for a period of not less than two (2) years, with complete and full rights in the Grantors to re-acquire legal title and possession as stated, and that it was the purpose and intent of the Grantors and of the Grantees in said deed hereinabove referred to, to establish such rights as stated.

That said deed, hereinabove referred to, copy of which is identified as "Exhibit A" to said bill of complaint, fails to express the true intent of the parties, if the right of re-purchase be void, as the result of and through the mutual mistake of the parties.

Respondent and Cross-Complainant further shows that if the said right to re-purchase the said real property from the Complainant and Cross-Respondent be void, that the entire instrument from James W. Gray, et al, to George H. Faulk and Complainant and Cross-Respondent, copy of which is attached to the bill of complaint and identified as "Exhibit A", is void and of no force and effect except as to the obligation which Respondent and Cross-Complainant does hereby recognize to make monetary re-payment to the Complainant and Cross-Respondent. Respondent and Cross-Complainant shows that if the right to re-purchase the said real property from Complainant and Cross-Respondent be void, that the said instrument of record, copy of which is attached to the bill of complaint and identified as "Exhibit A", fails to express, legally and validly, the true meaning and agreement of the said parties thereto, and that failure of the consideration in such respect vitiates the entire agreement and the same is null and void.

FIFTH

Respondent and Cross-Complainant further shows that if the right of re-purchase be void, that the said written instrument identified as "Exhibit A" constitutes a mistake of the scriviner in failing properly and appropriately to express the true agreement of the said parties, whose true intention and agreement was to vest in the said Grantors good, legal, enforceable and valid right of re-purchase of said real property as a part of the consideration to the Grantors therein.

SIXTH

Respondent and Cross-Complainant further shows that the Complainant and Cross-Respondent is estopped in equity and good conscience to avoid the re-purchase of said real property, or in the alternative to have the right of re-purchase declared void, for that such right of re-purchase was the valuable portion of the consideration to the Grantors in said instrument and Complainant and Cross-Respondent will be unjustly enriched by such.

Respondent and Cross-Complainant further shows that Complainant and Cross-Respondent comes into the Court of Equity with unclean hands in that he seeks to have declared void a portion of the instrument, copy of which is identified as "exhibit A", well knowing that he made agreement in good faith and in good conscience with the Grantors therein that his interest in said real property would be possessory in that it was subject to defeasance by valid, lawful, binding and effective right of re-purchase; and that Complainant and Cross-Respondent has no equitable right to seek of this Court of Equity the declaration of such right of re-purchase as void because of his unclean hands.

PRAYER FOR RELIEF

Respondent and Cross-Complainant prays that this Cross Bill be filed in said cause as further answer to said Bill of Complaint, and to each paragraph and aspect thereof separately and severally, and that T. W. Richardson be made a Cross-Respondent hereto under the rules and regulations provided by law.

Respondent further prays that upon the final hearing of this cause Your Honor will make and enter a decree granting relief to your Respondent as follows:

1. Construing and declaring the legal effect of the deed of conveyance, a copy of which is attached to the bill of complaint and marked "Exhibit A".
2. Ascertaining and declaring the rights to which Respondent is entitled in the property described in said bill of complaint and in the Exhibit A thereto.
3. Ascertaining and declaring that Respondent holds valid and existing right of re-purchase of said real property, and that it be decreed that Complainant execute and deliver to Respondent a deed conveying said real property to Respondent upon payment to him, or into this Honorable Court for him, of such sum of money as may be owing for such purpose under the terms of Exhibit A; and in the

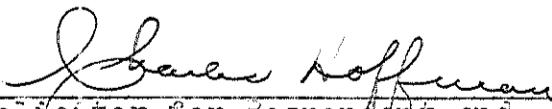
event that the said Complainant fails or refuses to execute such deed Respondent prays that this Honorable Court will decree that a deed conveying Complainant's title to Respondent be executed by the Register.

4. Without waiver of any of the foregoing, but expressly insisting upon the relief prayed for, ascertaining and declaring that the instrument, copy of which is identified as Exhibit A, to be totally void, subject to equitable right of reimbursement of Complainant as the Court shall determine.

5. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he is mistaken in asking for the relief prayed for hereinabove, that said instrument, copy of which is attached to the bill of complaint and identified as Exhibit A, be reformed to vest in Respondent valid, lawful, and enforceable right of re-purchase of said real property;

6. That if Respondent be mistaken in the relief prayed for that this Court will decree that the Complainant is estopped to assert the invalidity of the right of re-purchase in said instrument and that Complainant is without equitable right to have such right of re-purchase declared void.

7. That a reference be ordered by the Court to the Register of this Court for such other proceedings be had as may be appropriate to the granting of relief herein prayed for by Respondent. Respondent prays for such other, further and different relief as in equity and good conscience the Respondent is entitled to receive, the premises considered.


Solicitor for Respondent and
Cross-Complainant

T. W. RICHARDSON,

Complainant
and Cross-Respondent

No. 3272 Vs.

JAMES W. ROUNTREE

Defendant
and Cross-Complainant

CIRCUIT COURT OF ~~MOBILE~~ BALDWIN
COUNTY, ALABAMA
IN EQUITY

DEMAND FOR ORAL EXAMINATION

The State of Alabama
Mobile County

The Respondent and Cross-Complainant requests the oral examination of the following named witnesses on his behalf, viz.:

James W. Rountree

said witnesses reside in the County of Mobile, State of Alabama,

Mary Betty who reside at 717 First National Bank Building,
Mobile, Alabama

is suggested as a suitable person to be appointed Commissioner to take deposition of said witness on such oral examination.

Filed 7-1-62

~~WELSWORTH HAUGHTON, Register~~
Alice J. Duck, Circuit Clerk
Baldwin County, Alabama

Charles Hoffman

CAFFEY, GAGGAY & CAFFEY

By *[Signature]*

Solicitors for Respondent and
Cross Complainant

T. W. RICHARDSON	)	IN THE CIRCUIT COURT OF
Complainant and	)	BALDWIN COUNTY, ALABAMA
Cross-Respondent)	
vs.	)	IN EQUITY
JAMES W. ROUNTREE)	
Respondent and	)	No. 3272
Cross-Complainant)	

On the 16th day of July, 1962, under and pursuant to the commission attached hereto, I caused Mr. James W. Rountree, a witness on behalf of Respondent and Cross-Complainant to appear before me at the office of Caffey, Gallalee & Caffey, 717 First National Bank Building, Mobile, Alabama, at 10 o'clock A.M., who, after being duly sworn to speak the truth, the whole truth and nothing but the truth to all questions propounded to him, testified as follows:

APPEARANCES: Jack C. Gallalee and Charles Hoffman for Complainant and Cross-Respondent.

Mr. Norborne Stone, Solicitor for Complainant and Cross-Respondent, was notified under the provisions of Equity Rule 55, but did not appear.

MR. JAMES W. ROUNTREE, a witness on his own behalf, after being duly sworn, testified as follows:

My name is James W. Rountree and I am the Respondent and Cross-Complainant in this case. I am a resident of Mobile County, Alabama, and am over the age of 21 years. I know T. W. Richardson, the Complainant and Cross-Respondent. At the time

this suit was brought Mr. Richardson lived in Mississippi and was over 21 years of age. I do not know where he lives now but I have heard that he has a business in Nevada.

I am the same James W. Rountree who is named in a deed as Grantee, a copy of which is attached to the Bill of Complaint and made a part thereof and identified as Exhibit E. This deed is from J. W. Gray and others and is dated March 24, 1954 and was filed for record on April 6, 1954 and recorded in Deed Book 207, pages 410-13 of the records in the office of the Judge of the Probate Court of Baldwin County, Alabama. This deed (Exhibit E) conveys to me the real property which is described in the Bill of Complaint, including the right to repurchase the property from the Complainant and Cross-Respondent. I understand that Mr. Gray et al, the original owners and grantors, retained and still retain all oil, gas and other minerals as set forth in the original deed, and that I am not repurchasing these minerals because they were never sold.

In the Bill of Complaint T. W. Richardson, the Complainant and Cross-Respondent traces what he claims is his title to the property by four copies of deeds which are attached to the Bill of Complaint and made a part thereof and are marked Exhibits A, B, C and D. To the best of my knowledge, information and belief the allegations to the second paragraph of the Bill of Complaint showing the nature of the title of T. W. Richardson are true and correct.

The following is a true and correct description of the property set forth in each of the following Exhibits to the Bill of

Complaint which are made a part of the Bill of Complaint, A, B, C, D and E, and that is also the same property described and set forth in the Bill of Complaint:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly at right angles to said center line one hundred fifty feet to the North right of way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said Causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

Under the deed of conveyance from James W. Gray, copy of which is attached to the Bill of Complaint and made a part thereof and marked Exhibit E, I have the right to repurchase this property. I have exercised this right to repurchase. I have done so by offering to repurchase and the offer is set forth in the Answer and Cross-Bill. I have computed the amount of money which is payable to Mr. Richardson, the Complainant and Cross-Respondent, under the terms of the various deeds referred to. Under that option he is entitled to receive \$300.00 plus six percent interest from the date of the original deed to him which is marked Exhibit A, which deed is dated November 4, 1938. Computing interest from that date on the \$300.00 -- 23 years and 9 months -- until August 4, 1962, the accrued interest amounts to \$427.50. The total amount payable to August 4, 1962, is \$727.50.

Under the right to repurchase which I have exercised I will pay not only the principal of \$300.00 and interest of \$427.50, but will also pay the value of any permanent improvements erected by Mr. Richardson, his heirs or assigns, on the property but in no event to be fixed at more than fifteen hundred dollars. There have been definitely no improvements placed upon the property.

I have known the property approximately 15 years. I have walked over the property many times and there is no evidence of any type of improvement. There are no tracks or paths or roads on the property and no evidence of dredging or canals or additions to the property made by Mr. Richardson, his heirs or assigns, or his predecessors in title.

The Bill of Complaint in this case also refers to a lease from Mr. Richardson to George D. Argiro which contains an option to purchase the same property. In the fifteen years I have been familiar with the property Mr. Argiro has not been in possession. I have not seen him in possession. There has been no occupancy and no improvements. Mr. Argiro did not keep the property but dropped the lease. In other words, there have been no improvements of any kind made there, by Mr. Richardson or those he held under, or those who held under him.

The total amount of money which I understand to be payable in order to repurchase the property under the right of repurchase contained in the instrument referred to is \$727.50. I will personally pay this amount of money into the Registry of this Court at the time of the filing of this testimony. I am

prepared to pay any additional sums due and payable in order to exercise the right of repurchase. I am ready, willing and able to comply with the requirements of this Court in paying the amount of money provided by these instruments to be payable in order to repurchase.

Mr. Hoffman offered in evidence the deeds which are attached to the Bill of Complaint and made a part thereof and identified as Exhibits A, B, C, D and E.

Witness continuing testified:

I am ready, willing and able to comply fully with the terms of the deed, copy of which is attached to the Bill of Complaint and identified as Exhibit A, in making such payment or payments to the Complainant and Cross-Respondent in such amount as may be determined by the Court to be justly and equitably due to Complainant and Cross-Respondent.

As Respondent and Cross-Complainant I submit myself to the jurisdiction of this Court of Equity and am ready, willing and able to do full equity in the premises.

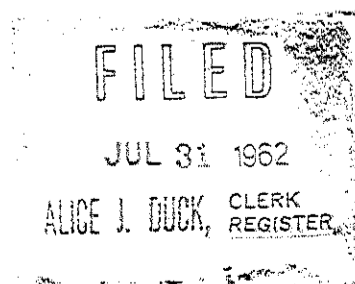

JAMES W. ROUNTREE

I, Mary Betty, the Commissioner named herein, hereby certify that the foregoing testimony was taken down in writing by me in the words of the witness, that he assented, swore to and subscribed the same in my presence, that said deposition is true and correct as given by said witness; that I have personal knowledge of the identify of the witness, and that I am not of counsel or kin to any of the parties to said cause or in any manner interested in the result thereof.

Witness my hand this 16th day of July, 1962.

Mary Betty

Commissioner



Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. ~~3222~~ 3272

T. W. RICHARDSON

Complainant.

vs.

JAMES W. ROUNTREE

Respondent.

I, Alice J. Duck

Register of the Circuit Court In Equity,
Baldwin County, Alabama, hereby certify that in the cause of

T. W. RICHARDSON

Complainant,

vs.

JAMES W. ROUNTREE

Respondent,

which was tried and determined in this Court on the 16th day of
February 19⁵⁶, in which there was a decree in favor of the
Complainant.

On the 5th day of March 19⁵⁶, the Respondent and Cross Complainant

took an appeal to the

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

I further certify that James W. Rountree and ~~Maryland Casualty Company~~

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

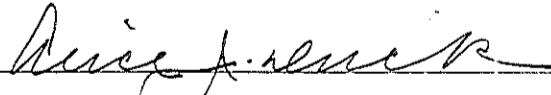
on the 5th day of March 19⁵⁶, and that James W. Rountree and

Maryland Casualty

are sureties on the appeal bond.

I further certify that notice of said appeal was on the _____
day of March, 19____, served on Chason & Stone
as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 6th day
of March, 19⁵⁶


Register of the Circuit Court In Equity of

Baldwin County, Alabama.

T. W. RICHARDSON,
Complainant,
vs.
JAMES W. ROUNTREE,
Respondent.

X
X
IN THE CIRCUIT COURT OF
X
BALDWIN COUNTY, ALABAMA
X
IN EQUITY NO. 3272
X
X

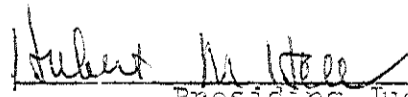
DECREE GRANTING MOTION TO STRIKE ANSWER

This cause coming on to be heard was submitted upon the Bill of Complaint, the Answer and Cross-bill of the Respondent and the Motion of the Complainant to strike the answer of the said Respondent. And the Court having considered the same and received the arguments of the counsel for the respective parties is of the opinion that the Motion to strike heretofore filed by the Complainant should be granted it is, therefore

ORDERED, ADJUDGED AND DECREED by the Court that the Motion of the Complainant, T. W. Richardson, to strike the answer of the Respondent, James W. Rountree, be, and the same is hereby granted and said answer is hereby stricken.

It is further ORDERED, ADJUDGED AND DECREED by the Court that the Respondent, James W. Rountree, shall have thirty days in which to file additional pleadings in this cause.

Done this 27th day of January, 1955.


Presiding Judge.

T. W. RICHARDSON,
Complainant,
vs.

JAMES W. ROUNTREE,
Respondent.

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

This cause coming on to be heard is submitted for ruling on the demurrers filed by the Respondent on July 15, 1954, to the original bill of complaint filed by the Complainant on June 12, 1954.

The Court, after considering the matters set out in the original bill of complaint and the demurrers thereto, is of the opinion that the demurrers are not well taken and should be overruled.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the demurrers of the Respondent to the original bill of complaint be, and the same are hereby overruled.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Respondent be, and he is allowed 30 days in which to file additional pleading.

This 18th day of October, 1954.

J. Hubert M. Hall

Judge of the 28th Judicial Circuit
of Alabama

RECORDED

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FILED
OCT 18 1954

ARTHUR A. BUCK, Registrar

STATE OF CALIFORNIA
COUNTY OF ...

...

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T. W. RICHARDSON, : IN THE CIRCUIT COURT OF
 COMPLAINANT : BALDWIN COUNTY,
 VS. : ALABAMA
JAMES W. ROUNTREE, : IN EQUITY NO. 3272
 RESPONDENT :

BOOK 004 PAGE 75

ANSWER AND CROSS BILL

Comes James W. Rountree and for answer to the Bill of Complaint in this cause filed, says as follows:

1. He admits the allegations of the first paragraph.
2. Respondent is informed and believes that Complainant is the owner by mesne conveyances of the real property described in the second paragraph. But Respondent alleges that Complainant is the conditional owner of said real property, his ownership being subject to the terms of that certain deed attached to the Bill of Complaint and made a part thereof and identified as Exhibit A. Respondent alleges that said deed identified as Exhibit A, in the granting clause, granted, bargained, sold and conveyed the said real property subject to the terms, limitations and conditions "hereinafter set forth"; and that said deed, in the habendum clause, conveyed the said real property "subject to the terms, limitations, and conditions hereinafter set forth"; and that said deed provides that it is made upon the express condition that the Grantors, for themselves and for their heirs, executors, administrators and assigns, reserved an option at any time subsequent to two years from the date of said deed to re-purchase the property from the Grantees, their heirs and assigns for the sum of Three Hundred (\$300.00) Dollars, plus six percent (6%) interest thereon from the date

of such instrument, plus the value of any permanent improvements erected by the Grantees, their heirs or assigns on the said property, with provision for appraisal of the value of such improvements by arbitration in no event to exceed the sum of One Thousand Five Hundred (\$1,500.00) Dollars.

Respondent alleges that Complainant and George H. Faulk were the Grantees in said deed identified as Exhibit A, and accepted delivery of said deed on the expressed conditions stated, and subject further to the reservations therein provided; that the said George H. Faulk and wife conveyed the said real property to the said Complainant by deed attached to the Bill of Complaint and identified as Exhibit B, and the Complainant accepted delivery of the deed from Faulk et al of such rights in said real property as were acquired under Exhibit A and subject to the restrictions and conditions contained in Exhibit A. Respondent further alleges that the Complainant and wife conveyed the said real property by deed copy of which is attached to the Bill of Complaint and identified as Exhibit C to E. J. Roberts conveying only to the said Roberts such rights as were acquired under Exhibits A and B and subject to the restrictions and conditions in Exhibit A. Respondent further alleges that the said E. J. Roberts and wife conveyed the said real property by instrument, copy of which is attached to the Bill of Complaint and identified as Exhibit D, to Complainant, conveying only such rights as were acquired by the said E. J. Roberts under Exhibit C, and in seriadem by the Grantees in Exhibit B and A, and that the Complainant accepted delivery of such deed identified as Exhibit D from the said E. J. Roberts subject to the restrictions and conditions contained in Exhibit A, particularly including the

provision that the conveyance is made upon the expressed condition that the Grantors in Exhibit A, for themselves and for their heirs, executors, administrators and assigns, reserved an option at any time subsequent to two years from the date of the Exhibit A to re-purchase the property, on the terms and conditions provided. And Respondent further alleges that Respondent is the owner and holder of the right of re-purchase which was made the expressed condition of the conveyance in Exhibit A under and pursuant to the instrument, copy of which is attached to the Bill of Complaint and identified as Exhibit E, the Grantors in Exhibit A, or their heirs or assigns, conveying to the Respondent by quitclaim deed all of their right, title and interest in and to the real property described in said Exhibit E and also described in the Bill of Complaint, and transferring and assigning unto Respondent all of the rights and option to re-purchase the said real property, and the trapping rights, described in Exhibit A.

3. Respondent admits that Complainant holds title subject to the oil, gas and other mineral, right of ingress and egress, and trapping rights, and Respondent alleges that Complainant holds title subject to the condition that Respondent is entitled to re-purchase the said real property on the terms and conditions set forth in Exhibit A. Respondent neither admits nor denies that George D. Argiro has any rights in and to the said real property under lease dated May 1, 1954, copy of which lease is attached to the Bill of Complaint and identified as Exhibit F, but Respondent denies that such lease to Argiro is in full force and effect and denies that Argiro and his agents were ordered off the property by the Respondent.

4. Respondent admits that the Grantors or their heirs conveyed their right of re-purchase and trapping rights to Respondent by deed dated March 24, 1954, which is recorded

in Deed Book 207, pages 410-13 in the Office of the Judge of Probate of Baldwin County, Alabama, copy of which is attached to the Bill of Complaint and marked Exhibit E. Respondent alleges that said Exhibit A is legal and valid, is in full force and effect, conveying to Respondent the right to re-purchase the said real property, and that Respondent is the owner and holder of valid, lawful and enforceable right to re-purchase the real property described in Exhibit A from Complainant on the terms and conditions set forth in Exhibit A.

5. Respondent denies there is a justiciable controversy between Complainant and Respondent concerning the construction of the reservations in Exhibit A, and Respondent avers that he holds lawful, valid and existing right to re-purchase the said real property described in Exhibit A.

6. Without waiving any of the foregoing allegations but expressly insisting upon them, Respondent states to the Court that if he is mistaken in his contention that he is the holder of lawful, valid and existing right to re-purchase the real property described in Exhibit A from Complainant, that the deed, copy of which is identified as Exhibit A, is totally void, and that Respondent is the owner in fee simple of such real property under and pursuant to the deed, copy of which is identified as Exhibit E.

7. Without waiving any of the foregoing allegations but expressly insisting upon them, Respondent states to the Court that if he is mistaken in his contentions (a) that Exhibit A is lawful, valid and existing as to the right of Respondent to re-purchase the said property, or (b) that Exhibit A is totally void and Respondent is the owner of said real property, subject to oil, gas and other mineral rights reserved and right of ingress and egress incident thereto,

then the deed of which Exhibit A is a copy is in fact not a deed, but is a mortgage and that Respondent has succeeded to the rights of the Mortgagors to pay the Complainant such sums advanced as consideration, such mortgage having not been foreclosed in equity.

8. Without waiving any of the foregoing allegations but expressly insisting upon them, Respondent states to the Court that if he is mistaken in his contentions stated above, then the purported deed copy of which is identified as Exhibit A is in fact a lease, Respondent having acquired leasehold rights, and Respondent being the owner of the lawful, valid and existing rights of ownership, which lease is subject to termination upon repayment of the moneys provided in and by said Exhibit A.

9. Respondent further avers that he is ready, able and willing, and is now ready, able and willing, to comply with the terms of said deed identified as Exhibit A, and to make such payment to Complainant, if any, in such amount as may be determined to be justly and equitably due, to the Complainant, and Respondent now submits himself to the jurisdiction of this Court of Equity and is ready and willing, and now offers to do, full equity in the premises.

PRAYER FOR RELIEF

Respondent prays that his answer be taken as a cross bill to be heard at the same time as the original bill, and that T. W. Richardson be made cross-respondent to said cross bill under the rules and regulations provided by law.

Respondent further prays that upon final hearing of this cause Your Honor will make and enter a decree granting relief to your Respondent as follows:

1. Ascertaining and declaring that Respondent is the owner of the lawful, valid and existing right to purchase, or re-purchase, the said real property from the Complainant,

and that it be decreed by this Court that the said T. W. Richardson execute and deliver to Respondent a deed conveying said real property to Respondent upon payment to him, or into this Honorable Court for him, of such sum of money as may be owing for such purpose under the terms of the deed copy of which is identified as Exhibit A; and in the event the said T. W. Richardson fails or refuses to execute such deed Respondent respectfully prays that this Honorable Court will decree that a deed conveying his title in the above described property be executed by the Register to Respondent.

2. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent prays that if he is mistaken in asking for the above relief, that the Court will make and enter a decree declaring the instrument copy of which is identified as Exhibit A to be totally void, and that Respondent is the owner of said real property, subject to such equitable rights of reimbursement as the Court shall determine in favor of the said T. W. Richardson.

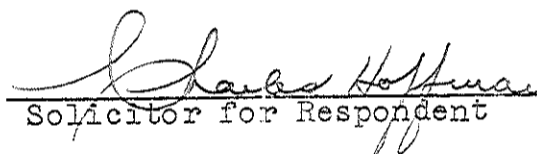
3. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he is mistaken in asking for the relief prayed for in the order named that the Court will make and enter a decree declaring the instrument identified as Exhibit A to be a mortgage, giving and granting unto Respondent the right to pay to the said T. W. Richardson or to this Court for him the sum ascertained to be due and payable.

4. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he is mistaken in asking for the above relief in the order set forth that the Court will make and enter a decree

declaring the instrument copy of which is identified as Exhibit A to be a lease, and the Court will decree such lease to be terminated and order possession thereof to be delivered to Respondent.

5. That a Reference be ordered by the Court to Register of this Court or other such proceedings be had as may be appropriate to the granting of the relief herein prayed for by Respondent.

And your Respondent prays for such other, further, and different relief as in equity and in good conscience the Respondent is entitled to receive, the premises considered.


Solicitor for Respondent

T. W. RICHARDSON,	:	IN THE CIRCUIT COURT OF
COMPLAINANT	:	BALDWIN COUNTY,
and CROSS-RESPONDENT	:	ALABAMA
VS.	:	
JAMES W. ROUNTREE,	:	IN EQUITY NO. 3272
RESPONDENT	:	
and CROSS-COMPLAINANT	:	

Comes the Respondent and Cross-Complainant in the above entitled cause, and the demurrer of the Complainant and Cross-Respondent to the amended Cross Bill of the Respondent and Cross-Complainant having been sustained, does hereby, with leave of Court, file the following amended Cross Bill against the Complainant and Cross-Respondent, and avers as follows:

FIRST

The Respondent and Cross-Complainant is a transferee under and pursuant to the instrument attached to the bill of complaint and identified as "Exhibit E" of the Grantors in and to the instrument attached to the bill of complaint and identified as "Exhibit A", and Respondent and Cross-Complainant avers that "Exhibit A" provides that "this conveyance is made upon the expressed condition that the Grantors, for themselves, and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property" conveyed in and by said instrument. Respondent and Cross-Complainant avers that if such expressed condition subsequent be void, then the entire instrument identified as "Exhibit A" is void.

SECOND

Respondent and Cross-Complainant avers that he is ready, willing and able, and does hereby make offer, to re-purchase the said parcel of real property as provided in and by said instrument identified as "Exhibit A", being the transferee of the rights of the Grantors therein under and pursuant to the instrument identified as "Exhibit E", and that he is ready, willing and able to comply with all of the terms of said instrument which is identified as "Exhibit A", in making such payment or payments in

such amount as may be determined to be justly and equitably due; and Respondent and Cross-Complainant submits himself to the jurisdiction of this Court of Equity and is ready and willing and now offers to do full equity in said premises.

THIRD

Respondent and Cross-Complainant further shows that the Complainant and Cross-Respondent and one George H. Faulk, Grantees in said instrument identified as "Exhibit A", agreed with the Grantors in said instrument identified as "Exhibit A" that the Grantees would take possession of the real property described in the bill of complaint for a minimum period of, to-wit, two (2) years; that the said parties agreed, and intended to execute an instrument, which would vest in the said Complainant and Cross-Respondent and the said Faulk merely the right of possession for a minimum period of two (2) years, with full right to said Grantors, which has been assigned and transferred by Exhibit E, to terminate such possessory right. Respondent and Cross-Complainant further shows that said possessory interest vested under Exhibit A was so written because of the possibility of use of said real property for an illegal purpose, to-wit, gambling, by the said Complainant and Cross-Respondent and/or the said George H. Faulk; and that said instrument by actual agreement and intention of the parties were to constitute in legal effect a written lease only.

FOURTH

Respondent and Cross-Complainant further avers that said instrument identified as Exhibit A fails to express the true agreement and intent of the parties, if the right of re-purchase be void, as the result of and through the mutual mistake of the scrivener, in failing properly and appropriately to express the true agreement of said parties, whose true intention and agreement was to vest in the said Grantors good, legal, enforceable and valid right to terminate the possessory

interest of the Grantees in said instrument identified as Exhibit A.

FIFTH

Respondent and Cross-Complainant further avers that if said right to re-purchase the said real property be void that the entire instrument identified as Exhibit A is void and of no force and effect except as to the obligation which Respondent and Cross-Complainant does hereby recognize to make monetary repayment to the Complainant and Cross-Respondent; that said instrument is void and of no force and effect because of the failure of the mutual consideration agreed upon as a part of the entire agreement between the parties thereto.

SIXTH

Respondent and Cross-Complainant further shows that the Complainant and Cross-Respondent is estopped in equity and good conscience to avoid the re-purchase^{of} the said real property, or in the alternative to have the right of re-purchase declared void, for that such right of re-purchase was a valuable portion of the consideration to the Grantors in said instrument and Complainant and Cross-Respondent will unjustly enriched by such; the Respondent and Cross-Complainant being the transferee and assignee of such rights retained by the Grantors in and to Exhibit A.

SEVENTH

Respondent and Cross-Complainant further shows that Complainant and Cross-Respondent has invoked the^{aid of} this Court of Equity with unclean hands on his part in that he seeks to have declared void the portion of the instrument identified as Exhibit A, well knowing that he made agreement in good faith and in good conscience with the Grantors therein that his interest in said real property would be possessory only and that it was subject to defeasance by valid, lawful, binding and effective right of re-purchase; and that Complainant and Cross-Respondent has no equitable right to seek of this Court of Equity the declaration of such rights of re-purchase as void because of his unclean hands.

PRAYER FOR RELIEF

Respondent and Cross-Complainant prays that this Cross Bill be filed in said cause as further answer to said bill of complaint, and to each paragraph and aspect thereof separately and severally, and that T. W. Richardson be made a Cross-Respondent hereto under the rules and regulations provided by law.


Respondent further prays that upon the final hearing of this cause Your Honor will make and enter a decree granting relief as follows to your Respondent:

1. Construing and declaring the legal effect of the deed of conveyance, a copy of which is attached to the bill of complaint and marked "Exhibit A".
2. Ascertaining and declaring the rights to which Respondent is entitled in the property described in said bill of complaint and in the Exhibit A thereto.
3. Ascertaining and declaring that Respondent holds valid and existing right of re-purchase of said real property, and that it be decreed that Complainant execute and deliver to Respondent a deed conveying said real property to Respondent upon payment to him, or into this Honorable Court for him, of such sum of money as may be owing for such purpose under the terms of Exhibit A; and in the event that the said Complainant fails or refuses to execute such deed Respondent prays that this Honorable Court will decree that a deed conveying Complainant's title to Respondent be executed by the Register.
4. Without waiver of any of the foregoing, but expressly insisting upon the relief prayed for, ascertaining and declaring that the instrument, copy of which is identified as Exhibit A, to be totally void, subject to equitable right of reimbursement of Complainant as the Court shall determine.
5. Without waiving any of the foregoing, but expressly insisting upon the relief prayed for, Respondent further prays that if he is mistaken in asking for the relief prayed for hereinabove, that said instrument, copy of which is attached to the bill of complaint and identified as Exhibit A, be returned

to vest in Respondent valid, lawful and enforceable right of re-purchase of said real property.

6. That if Respondent be mistaken in the relief prayed for that this Court will decree that the Complainant is estopped to assert the invalidity of the right of re-purchase in said instrument and that Complainant is without equitable right to have such right of re-purchase declared void;

7. That a reference be ordered by the Court to the Register of this Court for such other proceedings be had as may be appropriate to the granting of relief herein prayed for by Respondent. Respondent prays for such other, further and different relief as in equity and good conscience the Respondent is entitled to receive, the premises considered.


Charles Hoffman
Solicitor for Respondent
and Cross-Complainant

CHARLES HOFFMAN
ATTORNEY AT LAW
731-732 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

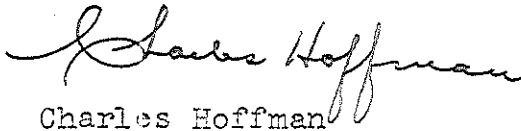
Nov. 16, 1954

Mrs. Alice J. Duck
Register in Equity
Circuit Court of Baldwin County
Bay Minette, Ala.

Dear Mrs. Duck:

Please find enclosed in duplicate answer and cross bill in the case of Richardson vs Rountree, number 3272, copy of which is also being mailed to Mr. Stone.

Sincerely yours,


Charles Hoffman

H/r
enc.
cc: Mr. Stone
Chason and Stone
Attorneys at Law
Bay Minette, Ala.

CHARLES HOFFMAN
ATTORNEY AT LAW
731-732 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

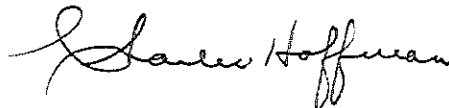
Feb. 24, 1955

Mrs. Alice J. Duck
Register in Equity
Circuit Court of Baldwin County
Bay Minette, Ala.

Dear Mrs. Duck:

Please find enclosed in duplicate Amended Answer and
Cross Bill in the case of Richardson vs Rountree, number
3272, copy of which is also being mailed to Mr. Stone.

Sincerely yours,



Charles Hoffman

H/r
enc.
cc: Mr. Stone
Bay Minette, Ala.

CHARLES HOFFMAN
ATTORNEY AT LAW
731-732 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

March 5, 1956

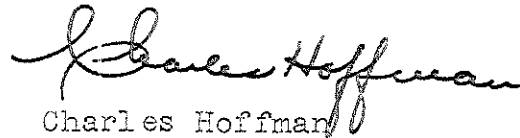
Mrs. Alice Duck
Register in Chancery
Baldwin County Court House
Bay Minette, Ala.

Dear Mrs. Duck:

In re: Richardson
vs: Rountree
NO: 3272

In connection with the above styled case, please
find enclosed Notice of Appeal and Bond for costs
of Court.

Very truly yours,


Charles Hoffman

H/r
enc

cc: Mr. M. Stone
Attorney at Law
Bay Minette, Ala.

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - IN EQUITY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon James W. Rountree to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, In Equity, by T. W. Richardson, as Complainant, against James W. Rountree, as Respondent.

Witness my hand this 12th day of June, 1954.



Register.

T. W. RICHARDSON,	Y	
Complainant,	Y	
vs.	Y	IN THE CIRCUIT COURT OF
JAMES W. ROUNTREE,	Y	BALDWIN COUNTY, ALABAMA
Respondent.	Y	IN EQUITY
	Y	

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY,
AND TO THE HONORABLE HUBERT M. HALL, JUDGE THEREOF:

Comes your Complainant, T. W. Richardson, by his Solicitors,
and respectfully represents and shows unto your Honor and unto this
Honorable Court as follows:

FIRST:

That your Complainant is over the age of twenty-one years
and a resident citizen of the State of Mississippi, his more par-
ticular address being Broadwater Beach Hotel, Biloxi, Mississippi.
That your Respondent, James W. Rountree, is over the age of twenty-
one years and a resident citizen of the State of Alabama, his more
particular address being 1316 Dauphin Street, Mobile, Alabama.

SECOND:

That your Complainant is the owner in fee simple, subject
only to the rights as are hereinafter more particularly set forth,
of the following described property situated in Baldwin County,
Alabama, to-wit:

From the Eastern end of the concrete trestle across
Tensaw River, on the Cochrane Bridge, run Eastwardly
along the center line of the Causeway two thousand
four hundred seventy-three feet to a point, thence
Northwardly at right angles to said center line one
hundred fifty feet to the North right of Way line of
said bridge or causeway, for the point of beginning;
thence North ten degrees and forty-five minutes East
Six Hundred feet, thence South seventy-nine degrees and
fifteen minutes East, parallel to said causeway, two
hundred feet, thence South ten degrees and forty-five
minutes West Six Hundred feet to the North line of said
right of way, thence Westwardly along said right of way
two hundred feet to the point of beginning; containing
three acres, more or less, and being a part of fractional
Section Twenty, Township Four South, Range One East, of
the St. Stephens Meridian.

That your Complainant acquired an undivided one-half interest in said property by that certain deed dated November 4, 1938, from James W. Gray, et al., to George H. Faulk, and your Complainant which said deed was filed for record on August 28, 1939, and is recorded in Deed Book 70 N. S. at pages 255-6, in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which is attached hereto and marked "Exhibit A" and by reference made a part hereof. That your Complainant acquired the undivided one-half interest of the said George H. Faulk by that certain deed dated July 24, 1939, from George H. Faulk and his wife, Irma K. Faulk, to your Complainant, which said deed was filed for record on August 28, 1939, and is recorded in Deed Book 70 N. S. at pages 256-7 in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which is attached hereto and marked "Exhibit B" and by reference made a part hereof. That on July 25, 1939, your Complainant and his wife, Nell Richardson, conveyed an undivided one-half interest in and to said property to E. J. Roberts by that certain deed filed for record on August 28, 1939, and recorded in Deed Book 70 N. S. at pages 257, in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which is attached hereto and marked "Exhibit C" and by reference made a part hereof. That the said E. J. Roberts and Mildred Roberts, his wife, re-conveyed to your Complainant the said undivided one-half interest conveyed by the last mentioned deed on October 9, 1941, which conveyance was filed for record on June 3, 1954, and is recorded in Deed Book 209 at pages 102-4, in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which is attached hereto and marked "Exhibit D" and by reference made a part hereof.

THIRD:

That in and by the terms of those certain deeds enumerated above and under which your Complainant holds title to said property the trapping rights were reserved to James W. Gray, et al., the grantors in that certain deed marked "Exhibit A" and there was further reserved to said grantors all oil, gas and other minerals in and under and that may be produced from the above described lands, and the said grantors did further reserve the rights of ingress and

and egress for drilling and producing and mining purposes of the same as shown by said deed marked "Exhibit A" and your Complainant's title is subject to the rights reserved in said deed and also to the rights of George D. Argiro that certain lease dated May 1, 1954, from your Complainant which was filed for record on May 8, 1954, and recorded in Deed Book 208, at pages 328-9, in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which lease is attached hereto and marked "Exhibit F" and by reference made a part hereof. That said lease is now in force and effect except that the said lessee is not in possession of the same in that he and his agents were ordered off the property by the said James W. Rountree, the Respondent herein.

FOURTH:

That in and by the terms of the deed from James W. Gray, et al., to your Complainant and George E. Faulk, the Grantors attempted to reserve unto themselves and unto their heirs and assigns an option to re-purchase the property described above and the improvements therein which purported reservation recites as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00."

That James W. Gray, Gabriella B. Gray, Josephine W. Gray, the widow, of George E. Gray, one of the original grantors in the deed to your Complainant and George E. Faulk referred to above, Emily G. McCorvey, Gessner T. McCorvey, Eleanor G. Elsberry and William E. Elsberry attempted to convey to the Respondent, James W. Rountree, said purported option to re-purchase by deed dated March 24, 1954, which was filed for record on April 6, 1954, and recorded in Deed Book 207, pages 410-13, in the Office of the Judge of Probate of Baldwin County, Alabama, a copy of which is attached hereto and marked "Exhibit E" and by reference made a part hereof. Your Complainant further alleges

that the purported right and option to re-purchase reserved in the conveyance to George H. Faulk and your Complainant is void and that the last mentioned deed from James W. Gray, et al., to James W. Rountree is of no force and effect except to convey to the said James W. Rountree the trapping rights on the property described in said conveyance.

FIFTH:

There is a justiciable controversy existing between your Complainant and the Respondent, James W. Rountree, concerning the construction of the reservations contained in that certain deed which is attached hereto and marked "Exhibit A" in that the Respondent, James W. Rountree, claims, or is reputed to claim, some right title or interest in the property of your Complainant other than the trapping rights which were conveyed to him on March 24, 1954, by James W. Gray, et al.

PRAYER FOR PROCESS:

The premises considered your Complainant respectfully prays that James W. Rountree be made a party respondent to this bill of complaint and that the usual writ of process issue out of this Court requiring him to plead, answer or demur to this bill of complaint within the time allowed by law and under the rules of this Honorable Court.

PRAYER FOR RELIEF:

Your Complainant further prays that this Honorable Court will assume jurisdiction of this controversy between your Complainant and the Respondent for the purpose of declaring the rights, status and legal relationship of the parties hereto and your Complainant further prays that upon a final hearing of this cause that your Honor will make and enter a decree granting relief to your Complainant as follows:

1. Construing and declaring the legal effect of the deed of conveyance, a copy of which is attached hereto and marked "Exhibit A".
2. Ascertaining and declaring the rights to which your Complainant's title to the property described herein is subject.

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3. Ascertaining and declaring that your Complainant is the owner of the fee simple title to the property described herein subject only to the rights specifically enumerated above.

4. Ascertaining and declaring that on March 24, 1954, the grantors in that certain conveyance, a copy of which is attached hereto and marked "Exhibit B" did not own any right, title, interest or claim in and to the land described herein other than trapping rights and the title to the oil, gas and minerals located in and under said property and the right of ingress and egress for the purpose of developing the same.

5. Ascertaining and declaring that the said George D. Argiro, the lessee of your Complainant, is entitled to the possession of said property under his lease from your Complainant and that the Respondent, James W. Rountree, is not entitled to the possession of said property except in the reasonable exercise of the trapping rights conveyed to him on March 24, 1954.

6. Directing that all such references or other proceedings be had as may be appropriate to the granting of the relief herein sought by the Complainant.

And your Complainant prays for such other, further and different reliefs as in Equity will be meet and proper, and which will finally determine the controversy now existing between your Complainant and the Respondent.

CHASON & STONE

By: Melvin G. Stone
Solicitors for Complainant.

We, Chason & Stone, Solicitors ^{for} the Complainant, do hereby acknowledge ourselves as security for costs.

CHASON & STONE

By: Melvin G. Stone

STATE OF ALABAMA
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS, That we, James W. Gray and his wife, Gabriella B. Gray, George E. Gray and his wife, Josephine W. Gray, Emily G. McCorvey and her husband, Gessner T. McCorvey and Eleanor G. Elsberry and her husband, William E. Elsberry, the grantors, for and in consideration of the sum of \$1.00 and other good and valuable consideration, cash to them in hand paid by George H. Faulk and T. W. Richardson, the grantees, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto George H. Faulk and T. W. Richardson, their heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth, all that certain real estate situate, lying and being in the County of Baldwin, State of Alabama, more particularly described as being bounded by a line described as follows, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly at right angles to said center line one hundred fifty feet to the North right of way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West Six Hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

Together with all and singular the rights, members, tenements, privileges, hereditaments, easements and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same unto the said George H. Faulk and T. W. Richardson, their heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth.

This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described.

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It is further expressly agreed and understood that the grantors reserve all of the oil, gas or other minerals in and under and that may be produced from the above described lands, and the said grantors do further reserve the rights of ingress and egress for drilling and producing and mining purposes and the use of the surface for the same.

The said Grantors do hereby expressly represent and warrant that Emma C. Gray died intestate in Mobile County, Alabama, on, to-wit: the 14th day of August, 1934, leaving surviving her as her sole heirs at law and next of kin her four children, viz: James W. Gray, George E. Gray, Emily G. McCorvey and Eleanor G. Elsberry, four of the grantors herein, and the said grantors do further expressly represent and warrant that no part of the above described property constitutes the homestead or any part of the homestead of any of the grantors herein.

The said grantors do hereby expressly covenant and warrant that since the death of the said Emma C. Gray they have annually assessed the above described property for taxes and paid the taxes thereon and that they have in no manner conveyed or encumbered the above described property.

It is expressly agreed and understood that while the grantors are to pay the State and County taxes which were due and payable October 1st, 1938, that the grantees herein assume and agree to pay the State and County taxes for 1939 and all subsequent taxes.

IN TESTIMONY WHEREOF, the grantors herein have hereunto set their hands and seals on this the 4th day of November, 1938.

JAMES W. GRAY (SEAL)
GABRIELLA B. GRAY (SEAL)
GEORGE E. GRAY (SEAL)
JOSEPHINE W. GRAY (SEAL)
EMILY G. McCORVEY (SEAL)
GESSNER T. McCORVEY (SEAL)
ELEANOR G. ELSBERRY (SEAL)
WILLIAM E. ELSBERRY (SEAL)

50¢ USIR stamp attached, cancelled

STATE OF ALABAMA
MOBILE COUNTY

I, MARGARET WELL, a Notary Public in and for said State and County, hereby certify that James W. Gray and his wife, Gabriella B. Gray, George E. Gray and his wife, Josephine W. Gray and Emily G. McCorvey and her husband, Gessner, T. McCorvey, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand this 5th day of November, 1938.

MARGARET WELL
Notary Public, Mobile County,
Alabama.

STATE OF ALABAMA
MONTGOMERY COUNTY

I, MRS. E. L. PERKINS, a Notary Public in and for said State and County hereby certify that Eleanor G. Elsberry and her husband, William E. Elsberry, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand this 4th day of November, 1938.

MRS. E. L. PERKINS
Notary Public, Montgomery County
Alabama.

SEAL

"EXHIBIT B"

STATE OF ALABAMA
BALDWIN COUNTY

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KNOW ALL MEN BY THESE PRESENTS, That we, George H. Faulk and his wife, Irma M. Faulk, the grantors, for and in consideration of the sum of \$1.00 and other good and valuable considerations, cash to them in hand paid by T. W. Richardson, the grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said T. W. Richardson, his heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth all that certain real estate situate, lying and being in the County of Baldwin State of Alabama, more particularly described as being bounded by a line described as follows, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly at right angles to said center line One Hundred fifty feet to the North right of Way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East Six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

Together with all and singular the rights, members, tenements, privileges, hereditaments, easements and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the same unto the said T. W. Richardson, his heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth.

It is expressly agreed and understood between the parties hereto that the said George H. Faulk and his wife are only conveying to the said T. W. Richardson such rights in the said property as were acquired by the said George H. Faulk under that certain deed from James W. Gray et al., to George H. Faulk and T. W. Richardson dated the 4th day of November, 1938, and that this conveyance is made subject to the restrictions and conditions contained in the said conveyance from James W. Gray, et al., to George H. Faulk and T. W. Richardson, as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two, years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs and assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected but is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

"EXHIBIT C"

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STATE OF ALABAMA
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS, That we, T. W. Richardson and his wife, Nell Richardson, the grantors, for and in consideration of the sum of \$1.00 and other good and valuable considerations, cash to them in hand paid by E. J. Roberts, the grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said E. J. Roberts, his heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth, an undivided one-half interest in and to all that certain real estate, situate, lying and being in the County of Baldwin, State of Alabama, more particularly described as being bounded by a line described as follows, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochrane Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point, thence Northwardly at right angles to said center line one hundred fifty feet to the North Right of Way line of said bridge or causeway, for the point of beginning; thence North Ten degrees and forty-five minutes East Six Hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

Together with all and singular the rights, members, tenements, privileges, hereditaments, easements and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the same unto the said E. J. Roberts, his heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth.

It is expressly agreed and understood between the parties hereto that the said T. W. Richardson and wife are only conveying to the said E. J. Roberts such rights in the said property as were acquired by the said T. W. Richardson under that certain deed from George H. Faulk and his wife, Irma H. Faulk, to T. W. Richardson dated the 24th day of July, 1939, and as were acquired by the said George H. Faulk under that certain deed from James W. Gray, et al., to George H. Faulk and T. W. Richardson dated the 4th day of November, 1938, and that this conveyance is made subject to the restrictions and conditions contained in the said conveyance from James W. Gray, et al., to George H. Faulk and T. W. Richardson, as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements

be fixed at more than \$1,500.00

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described.

It is further expressly agreed and understood that the grantors reserve all of the oil, gas or other minerals in and under and that may be produced from the above described lands, and the said grantors do further reserve the right of ingress and egress for drilling and producing and mining purposes and the use of the surface for the same."

IN TESTIMONY WHEREOF, the grantors herein have hereunto set their hands and seals on this the 25th day of July, 1939.

50¢ USIR stamp attached,
cancelled.

T. W. RICHARDSON (SEAL)
MRS. T. W. RICHARDSON (SEAL)

STATE OF ALABAMA
BALDWIN COUNTY

I, G. E. PERKINS, a Notary Public in and for said county in said state, hereby certify that T. W. Richardson and his wife, Nell Richardson, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand this 25th day of July, 1939.

SEAL

G. E. PERKINS
Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA
BALDWIN COUNTY

I, G. E. PERKINS, a Notary Public, in and for said county in said state, do hereby certify that on the 25th day of July, 1939, came before me the within named Nell Richardson, known to me to be the wife of the within named T. W. Richardson, who, being examined separate and apart from the husband, touching her signature to the within instrument, acknowledged that she signed the same of her own free will and accord, and without fear, constraints, or threats on the part of the husband.

Given under my hand this the 25th day of July, 1939.

SEAL

G. E. PERKINS
Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS, That we, E. J. Roberts and his wife, Mildred Roberts, the grantors, for and in consideration of the sum of \$1.00 and other good and valuable considerations, cash to them in hand paid by T. W. Richardson, the grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said T. W. Richardson, his heirs and assigns, subject to the terms, limitations and conditions hereinafter set forth, an undivided one-half interest in and to all that certain real estate situate, lying and being in the County of Baldwin, State of Alabama, more particularly described as being bounded by a line described as follows, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochran Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point; thence Northwardly at right angles to said center line one hundred fifty feet to the North Right of Way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

Together with all and singular the rights, members, tenements, privileges, herditaments, easements and appurtenances belonging or in anywise appertaining.

start
To have and to hold the same unto the said T. W. Richardson his heirs and assigns, subject to the terms, limitations and conditions herein after set forth.

It is expressly agreed and understood between the parties hereto that the said E. J. Roberts and wife are only conveying to the said T. W. Richardson such rights in the said property as were acquired by the said E. J. Roberts under that certain deed from T. W. Richardson and his wife, Nell Richardson, to E. J. Roberts dated the 25th day of July, 1939, and as were acquired by the said T. W. Richardson under that certain deed from George H. Faulk and his wife, Irma M. Faulk, to T. W. Richardson dated the 24th day of July, 1939, and as were acquired by the said George H. Faulk under that deed from James W. Gray, et al., to George H. Faulk and T. W. Richardson dated the 4th day of November, 1938, and that this conveyance is made subject to the restrictions and conditions contained in the said conveyance from James W. Gray, et al., to George H. Faulk and T. W. Richardson, as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereto, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors,

their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described.

It is further expressly agreed and understood that the grantors reserve all of the oil, gas or other minerals in and under and that may be produced from the above described lands, and the said grantors do hereby further reserve the rights of ingress and egress for drilling and producing and mining purposes and the use of the surface for the same."

IN TESTIMONY WHEREOF, the grantors herein have hereunto set their hands and seals on this the 9th day of October, 1941.

E. J. ROBERTS /s/ (SEAL)
MILDRED ROBERTS /s/ (SEAL)

STATE OF ALABAMA
BALDWIN COUNTY

I, GAYLE WILDER, a Notary Public in and for said county in said state, hereby certify that E. J. Roberts and his wife Mildred Roberts whose names are signed to the foregoing instrument and who are known to me acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand this 9th day of October, 1941.

SEAL GAYLE WILDER /s/
Notary Public, Baldwin County, Alabama

STATE OF ALABAMA
BALDWIN COUNTY

I, GAYLE WILDER, a Notary Public in and for said County in said State, do hereby certify that on the 9th day of October, 1941, came before me the within named Mildred Roberts, known to me to be the wife of the within named E. J. Roberts, who, being examined separate and apart from the husband touching her signature to the within instrument, acknowledged that she signed the same of her own free will and accord, and without fear, constraints, or threats on the part of the husband.

Given under my hand this the 9th day of October, 1941.

SEAL GAYLE WILDER /s/
Notary Public, Baldwin County, Alabama

"EXHIBIT E"

BOOK 004 PAGE 52

STATE OF ALABAMA |
COUNTY OF BALDWIN |

KNOW ALL MEN BY THESE PRESENTS, that whereas James W. Gray and his wife, Gabriella E. Gray, George E. Gray and his wife, Josephine W. Gray, Emily G. McCorvey and Gessner T. McCorvey, her husband, and Eleanor G. Elsberry and her husband, William E. Elsberry, did, as Grantors, under date of November 4, 1938, convey the real property situated in Baldwin County, Alabama, described particularly hereinafter to George H. Faulk and T. W. Richardson, and,

WHEREAS, the said instrument of conveyance to the said George H. Faulk and T. W. Richardson provided in part as follows:

"This conveyance is made upon the express condition that the grantors, for themselves and for their heirs, executors, administrators and assigns, do hereby reserve an option at any time subsequent to two years from the date hereof to re-purchase the property herein conveyed from the said grantees, their heirs, and assigns, for the sum of \$300.00, plus six per cent interest thereon from the date hereof, plus the value of any permanent improvements erected by the grantees, their heirs or assigns, on the said property, the value of such permanent improvements to be fixed by an appraisal made by three arbitrators, one appointed by the grantors, their heirs or assigns, one appointed by the grantees, their heirs or assigns, and the third arbitrator to be selected by the two arbitrators thus selected, but it is expressly agreed and understood that in no event shall the appraised value of such permanent improvements be fixed at more than \$1,500.00.

It is further expressly agreed and understood that the grantors herein reserve all trapping rights on the premises hereinabove described."

AND, WHEREAS, George E. Gray has died since the execution of the aforesaid instrument, and Josephine W. Gray, his wife, is the owner of all of the right, title and interest of the said George E. Gray in and to said parcel of real property, including said right of re-purchase, and,

WHEREAS, the said parties have agreed to sell to James W. Rountree the right and option to re-purchase reserved in the aforesaid conveyance to George H. Faulk and T. W. Richardson and all right, title and interest in and to the trapping rights described therein, although such sale is not to include any oil, gas or other minerals and the rights of ingress and egress relative thereto:

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations in hand paid to James W. Gray and his wife, Gabriella E. Gray, Josephine W. Gray, widow, Emily G. McCorvey and her husband, Gessner T. McCorvey, and Eleanor G. Elsberry and her husband, William E. Elsberry, hereinafter called the parties of the first part, by James W. Rountree, hereinafter called the party of the second part, the receipt in full of which said consideration is hereby acknowledged, the said parties of the first part do hereby remise, release, quitclaim and convey unto the said party of the second part all of their right, title, interest and claim in and to the following described real property situated in the County of Baldwin, State of Alabama, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochran Bridge, run Eastwardly along the center line of the causeway two thousand four hundred seventy-three feet to a point; thence Northwardly at right angles to said center line one hundred fifty feet to the North Right of Way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

TO HAVE AND TO HOLD the same unto the said party of the second part and unto his heirs and assigns.

And for the said consideration, the said parties of the first part do hereby transfer, assign, set over and convey unto the said party of the second part all of the rights and option to re-purchase reserved unto the Grantors in that certain instrument of conveyance of the real property hereinabove described to George H. Faulk and T. W. Richardson, which instrument is dated November 4, 1938, and all right, title and interest in and to the trapping rights described therein.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals on this 24th day of March, 1954.

JAMES W. GRAY /s/ (SEAL)
GABRIELLA B. GRAY /s/ (SEAL)
JOSEPHINE W. GRAY /s/ (SEAL)
EMILY G. McCORVEY /s/ (SEAL)
GESSNER T. McCORVEY /s/ (SEAL)
PLEANOR G. ELSBERRY /s/ (SEAL)
WILLIAM E. ELSBERRY /s/ (SEAL)

STATE OF ALABAMA }
COUNTY OF MOBILE }

I, O. H. Swinson, a Notary Public in and for the State of Alabama At Large, do hereby certify that James W. Gray and his wife, Gabriella B. Gray, Josephine W. Gray, a widow, and Emily G. McCorvey and her husband, Gessner T. McCorvey, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 24th day of March, 1954.

SEAL

O. W. Swinson
Notary Public, State of Alabama At Large

STATE OF LOUISIANA
PARISH OF ORLEANS

I, Richard Martin Mathews, a Notary Public in and for said State and Parish, do hereby certify that Eleanor G. Elsberry, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 26th day of March, 1954.

Richard Martin Mathews /s/
Notary Public, Orleans Parish,
Louisiana

RICHARD MARTIN MATHIEWS
Notary Public, Parish of Orleans,
State of La.
My Commission is issued for life.

STATE OF ALABAMA
COUNTY OF MONTGOMERY

I, Ruby S. Hurst, a Notary Public in and for said State and County, do hereby certify that William E. Elsberry, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 27th day of March, 1954.

Ruby S. Hurst /s/
Notary Public, Montgomery, County
Alabama.

SEAL.

STATE OF ALABAMA
BALDWIN COUNTY

THIS INSTRUMENT, made and entered into on this the 1st day of May, 1954, by and between T. W. Richardson, hereinafter called the party of the first part, and George D. Angiro, hereinafter called the party of the second part, witnesseth,

That the party of the first part does hereby lease unto the said party of the second part the following described real property situate in Baldwin County, Alabama, to-wit:

From the Eastern end of the concrete trestle across Tensaw River, on the Cochran Bridge, run Eastwardly along the center line of the Causeway two thousand four hundred seventy-three feet to a point; thence Northwardly at right angles to said center line one hundred fifty feet to the North Right of Way line of said bridge or causeway, for the point of beginning; thence North ten degrees and forty-five minutes East six hundred feet, thence South seventy-nine degrees and fifteen minutes East, parallel to said causeway, two hundred feet, thence South ten degrees and forty-five minutes West six hundred feet to the North line of said right of way, thence Westwardly along said right of way two hundred feet to the point of beginning; containing three acres, more or less, and being a part of fractional Section Twenty, Township Four South, Range One East, of the St. Stephens Meridian.

for a period of ten (10) years from May 1st., 1954 through April 30th., 1964.

The party of the second part does hereby agree to pay to the said party of the first part as rent for said property the sum of Twelve Thousand (12,000.00) Dollars, in one hundred twenty (120) monthly installments of one Hundred (\$100.00) Dollars each, the first of which is due and payable May 1st., 1954, and one becoming due and payable on the first day of the following one hundred nineteen (119) months.

In consideration of the foregoing and the further consideration of One (\$1.00) Dollar in hand paid by the party of the second part to the party of the first part this day, the receipt whereof is hereby acknowledged, the said party of the first part does hereby grant unto the said party of the second part an option to purchase the above described real property from the party of the first part for the sum of Ten Thousand (\$10,000.00) Dollars at any time during the term of this lease. In the event the said party of the second part elects to exercise his option to purchase the above described real property, then the party of the first part agrees to convey said real property to the party of the second part by full warranty deed with covenant of title and thereafter all installments of rent above stipulated shall cease as of the date of the purchase of said property by the party of the second part from the party of the first part.

It is hereby mutually agreed between the parties hereto that in the event the said party of the second part erects any improvements on the above described real property during the term of this lease, then he shall pay all ad valorem taxes on said improvements to the party of the first part before the same become delinquent.

It is further mutually agreed between the parties hereto that should the party of the second part fail to pay any installment of rent when the same becomes due, or fails to pay the ad valorem taxes on any improvements erected by him on the above described property before the same become delinquent, or should he be adjudged a bankrupt by a court of competent jurisdiction, then, in either event, the party of the first part may, at his election, terminate this lease and option and re-enter into possession of the above described real property and all permanent improvements erected thereon.

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It is further mutually agreed between the parties hereto that in the event the party of the first part desires a space sufficient to erect a building and have parking space on said property during the term of this lease, or within ten years after the party of the second part exercises his option to purchase the hereinbefore described real property, then the party of the second part agrees to lease the party of the first part a sufficient portion of the hereinbefore described real property to accomodate a thirty (30') feet by fifty (50') foot building and parking space for the customers thereof at a reasonable price.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this the 1st day of May, 1954.

T. W. Richardson /s/ (SEAL)
PARTY OF THE FIRST PART.

George D. Argiro /s/ (SEAL)
PARTY OF THE SECOND PART.

STATE OF MISSISSIPPI,
HARRISON COUNTY.

I, the undersigned Notary Public in and for said County in said State, hereby certify that T. W. Richardson, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this 1st day of May, 1954.

Robert R. Camp /s/
NOTARY PUBLIC, HARRISON COUNTY,
MISSISSIPPI.
My Commission Expires July 10, 1954.

SEAL

STATE OF ALABAMA
MOBILE COUNTY

I, the undersigned Notary Public in and for said County in said State, hereby certify that George D. Argiro, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this 3rd day of May, 1954.

Theresa M. Felis /s/
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA.

SEAL.

CHARLES HOFFMAN
ATTORNEY AT LAW
731-732 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

July 14, 1954

Mrs. Alice J. Duck
Register in Equity
Circuit Court of Baldwin County
Bay Minette, Ala.

Dear Mrs. Duck:

Please find enclosed demurrer to bill of complaint in the case of T. W. Richardson vs. James W. Rountree, No. 3272. Copy has been mailed to Mr. Stone.

Mr. Stone has agreed with me to talk to the Judge to fix a date for argument of the demurrer, and he will notify me of the date convenient to the Judge.

Thanking you for your courtesy, I am,

Very truly yours,


Charles Hoffman

H/r
enc.

cc: Chason and Stone
Attorneys at Law
Bay Minette, Ala.

1. That said allegations are conclusions of the Pleader.

2. It affirmatively appears from the recitals in Exhibit A attached to the original Bill of Complaint that the attempt to reserve an option to re-purchase said property is void.

3. No facts are alleged to entitle the Cross-Complainant to the relief prayed for.

Comes now the Cross-Respondent and demurs to that aspect of the Cross-Bill wherein the Cross-Complainant seeks to have this Court declare that the deed which is attached to the Bill of Complaint and marked Exhibit A is a mortgage and assigns the following, separately and severally, in support thereof:

1. That said allegations are conclusions of the Pleader.

2. It affirmatively appears from the recitals in Exhibit A attached to the original Bill of Complaint that the attempt to reserve an option to re-purchase said property is void.

3. No facts are alleged to entitle the Cross-Complainant to the relief prayed for.

Comes now the Cross-Respondent and demurs to that aspect of the Cross-Bill wherein the Cross-Complainant seeks to have this Court declare that the deed which is attached to the Bill of Complaint and marked Exhibit A is a lease and assigns the following, separately and severally, in support thereof:

1. That said allegations are conclusions of the Pleader.

2. It affirmatively appears from the recitals in Exhibit A attached to the original Bill of Complaint that the attempt to reserve an option to re-purchase said property is void.

3. No facts are alleged to entitle the Cross-Complainant to the relief prayed for.

Respectfully submitted,

CHASON & STONE

By: Melvin J. Stone
Attorneys for Complainant and Cross-Respondent.

T. W. RICHARDSON,	I
Complainant and	I
Cross Respondent	I
vs.	I IN THE CIRCUIT COURT OF
JAMES W. ROUNTREE,	I BALDWIN COUNTY, ALABAMA
Respondent and	I IN EQUITY NO. 3272
Cross Complainant	I
	I

This being the day heretofore fixed by agreement of the parties for the submission of this cause upon the demurrer of the Complainant and Cross Respondent to the amended Cross Bill of the Respondent and Cross Complainant and the same having been submitted without argument and the Court having considered the demurrer to the amended Cross Bill as a whole and the several demurrers to the various aspects of the amended Cross Bill is of the opinion that the demurrers should be sustained, it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the demurrer of the Complainant and Cross Respondent to the amended Cross Bill of the Respondent and Cross Complainant be, and the same hereby is, sustained.

It is further ORDERED, ADJUDGED and DECREED by the Court that the several demurrers addressed specifically to the various aspects of the amended Cross Bill be, and they each are hereby, sustained.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Respondent and Cross Complainant shall have, and he hereby is granted, a period of twenty (20) days in which to file additional pleadings if he should desire to do so.

Done this 17th day of August, 1955.

Hubert M. Hall

 Circuit Judge.

T. W. RICHARDSON,

Complainant and
Cross Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and
Cross Complainant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 3272

Comes now the Complainant and Cross Respondent and demurs to the amended cross bill heretofore filed in this cause and to each and every aspect thereof, separately and severally assigns the following separate and several grounds:

1. There is no equity in the amended cross bill.
2. The allegations of the first paragraph thereof are conclusions of the pleader.
3. The allegation of the first paragraph thereof that "the Respondent and Cross Complainant is the owner and holder of the equitable title of said parcel of real property" is but a conclusion of the pleader.
4. It affirmatively appears from the allegations of the amended cross bill that the Complainant is the owner and holder of the fee simple title to the property described in the Bill of Complaint.
5. It affirmatively appears from the allegations of the amended cross bill that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.
6. It affirmatively appears from the allegations of the amended cross bill that the Respondent and Cross Complainant is attempting to express the intention of the parties to a written instrument by parol.
7. The allegation of the second paragraph of the amended cross bill that "he is the owner and holder of the right to repurchase the said parcel of real property" is a conclusion of the pleader.
8. It affirmatively appears from the allegations of the third paragraph of the amended cross bill to the alleged agreement recited therein is in violation of the Statute of Frauds.

9. The allegations of the third paragraph of the amended cross bill are conclusions of the pleader.

10. It affirmatively appears from the allegations of the third paragraph that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.

11. It affirmatively appears from the allegations of the third paragraph that the Respondent and Cross Complainant is attempting to avoid an instrument through a mutual mistake of law and not of fact.

12. The allegations of the fourth paragraph of the amended cross bill are conclusions of the pleader.

13. The allegations of the fourth paragraph of the amended cross bill are inconsistent.

14. It affirmatively appears from the allegations of the fourth paragraph of the amended cross bill that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.

15. The allegations of the fifth paragraph of the amended cross bill are but conclusions of the pleader.

16. The amended cross bill fails to allege facts showing that the Complainant and Cross Respondent is estopped to have the instrument referred to therein construed.

17. The allegations of the sixth paragraph of the amended cross bill are but conclusions of the pleader.

18. The allegations of the seventh paragraph are but conclusions of the pleader.

19. It affirmatively appears from the allegations of the seventh paragraph of the amended cross bill that the Respondent and Cross Complainant is seeking to vary the terms of a written instrument by parol.

20. It affirmatively appears from the amended cross bill that the Respondent and Cross Complainant did not purchase an option to repurchase from the grantors in the deed which is attached to the Bill of Complaint and marked Exhibit "A".

Comes now the Respondent and Cross Complainant and demurs to that aspect of the amended cross bill wherein the Respondent and Cross Complainant offers to repurchase the property described in the Bill of Complaint from the Complainant and Cross Respondent and assigns the following separate and several grounds in support thereof:

1. It affirmatively appears from the allegations of the amended cross bill that the Respondent and Cross Complainant is not the holder of a right to repurchase the real property described in the Bill of Complaint.

2. The Respondent and Cross Complainant fails to allege any facts showing a valid, legal and existing right and option to repurchase the property described in the Bill of Complaint, either in himself or in his grantors.

Comes now the Complainant and Cross Respondent and demurs to that aspect of the amended cross bill which seeks to establish a mutual mistake of the parties to the instrument which is attached to the Bill of Complaint and marked Exhibit "A", and assigns the following separate and several grounds in support thereof:

1. It affirmatively appears that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.

2. There is no equity in said aspect of cross bill.

3. No facts are alleged to show a mutual mistake of fact of the parties to said instrument.

4. It affirmatively appears from the allegations of the amended cross bill that the Respondent and Cross Complainant is attempting to avoid the legal effect of said instrument by establishing a mistake of law.

5. It affirmatively appears from the amended cross bill that the Respondent and Cross Complainant is a purchaser from the original grantors in said instrument and as such is charged with any defect in legal construction of said instrument.

6. No facts are alleged to show a mistake of facts by the Complainant and Cross Respondent.

Comes now the Complainant and Cross Respondent and demurs to that aspect of the amended cross bill which seeks to vitiate the deed, a copy of which is attached to the Bill of Complaint and marked Exhibit "A", on the ground of failure of consideration, and assigns the following separate and several grounds in support thereof:

1. There is no equity in said aspect of the amended cross bill.
2. The allegations of said aspect are but conclusions of the pleader.
3. No facts are alleged to show a failure of consideration for the execution and delivery of said deed.
4. The allegations of said aspect are inconsistent.
5. It affirmatively appears from said aspect that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.
6. It affirmatively appears from the allegations of said aspect that the alleged consideration is void.
7. Said aspect of the amended cross bill fails to allege any valid and legal consideration for said deed, the failure of which would vitiate the entire instrument.
8. It affirmatively appears from the allegations of said aspect that the purported option to repurchase is void.

Comes now the Respondent and Cross Complainant and demurs to that aspect of the amended cross bill whereby the Respondent and Cross Complainant seeks to establish a mistake of the scrivener of the deed which is attached to the Bill of Complaint and marked Exhibit "A", and assigns the following separate and several grounds:

1. There is no equity in said aspect.
2. Said aspect fails to allege any facts which show a mistake of the scrivener of said deed.
3. The allegations are but conclusions of the pleader.

Comes now the Complainant and Cross Respondent and demurs to that aspect of the amended cross bill wherein the Respondent and Cross Complainant seeks to establish an estoppel against the Complainant and Cross Respondent and assigns the following separate and several grounds in support thereof:

1. No facts are alleged in the amended cross bill to show an estoppel in favor of the Respondent and Cross Complainant.

2. It affirmatively appears from the allegations of the amended cross bill that the Respondent and Cross Complainant was not a party to the deed which is attached to the Bill of Complaint and marked Exhibit "A".

3. The allegations of said aspect are inconsistent.

Comes now the Complainant and Cross Respondent and demurs to that aspect of the amended cross bill wherein the Respondent and Cross Complainant seeks to invoke the equitable doctrine of "unclean hands", and assigns the following separate and several grounds in support thereof:

1. No facts are alleged in the amended cross bill to affirmatively show that the Complainant and Cross Respondent has come into equity with unclean hands.

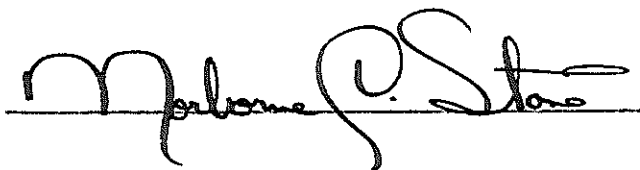
2. It affirmatively appears that the Respondent and Cross Complainant is attempting to vary the terms of a written instrument by parol.

3. The allegations of said aspect are but conclusions of the pleader and no facts are alleged to support such conclusions.

Respectfully submitted,

CHASON & STONE

By:



T. W. RICHARDSON,
Complainant and
Cross-Respondent,

vs.

JAMES W. ROUNTREE,
Respondent and
Cross-Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO: 3272

DECREE SUSTAINING DEMURRER TO AMENDED CROSS-BILL

This cause coming on to be heard was submitted on the Demurrer of the Complainant and Cross-Respondent to the Amended Cross-Bill of the Respondent and Cross-Complainant filed in this cause on December 8, 1955, and the Court having considered the same is of the opinion that the demurrer should be sustained; it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the demurrer of the Complainant and Cross-Respondent to the Amended Cross-Bill of the Respondent and Cross-Complainant filed in this cause on December 8, 1955, be, and the same is hereby, sustained.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Respondent and Cross-Complainant be, and he hereby is, granted twenty (20) days in which to file additional pleadings in this cause.

Done this 16th day of February, 1956.

Hubert M. Stee
Circuit Judge

CAFFEY, GALLALEE & CAFFEY
ATTORNEYS AT LAW
SEVENTH FLOOR FIRST NATIONAL BANK BUILDING
MOBILE 3, ALABAMA
P. O. BOX 388

WILLIAM G. CAFFEY
JACK C. GALLALEE
WILLIAM G. CAFFEY, JR.
ROBERT S. EDINGTON
RALPH P. LOVELESS

July 30, 1962

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

Dear Mrs. Duck:

We are today filing the testimony of James W. Rountree taken pursuant to commission issued by you in the case of Richardson vs. Rountree. In the testimony Mr. Rountree states that he will pay into Court the sum of \$727.50, and accordingly we enclose our check payable to you as Register in the amount of \$727.50, which is paid for Mr. Rountree's account.

Also enclosed herewith are the following:

1. Original of a note of evidence. We have sent another original to Mr. Stone, but in case you see him before he gets the note of evidence into your hands, perhaps you can ask him if he will sign the one which we are delivering to you herewith.
2. Proposed final decree.
3. Proposed deed from you as Register pursuant to the final decree.

Once the note of evidence is signed, we will appreciate it if you will present the testimony and the final decree to Judge Hall and ask him to please sign it. After the decree has been signed, we will appreciate it if you will execute the deed. Both deed and decree should be recorded in the Probate Court, and the costs of recording taxed as costs in the cause. Since the costs

7/31/62

Mrs. Alice J. Duck

Page 2

July 30, 1962

are to be taxed against the Respondent and Cross-Complainant, I am sure that Mr. Stone will have no objection to the recording being taxed as part of the costs.

If you have any questions, please call our office or the office of Mr. Charles Hoffman, and we will be glad to do anything we can to make any changes or corrections that Judge Hall desires. Your help and cooperation will be very much appreciated.

Very truly yours,

CAFFEY, GALLALEE & CAFFEY

By Jack L. Gallalee
AB

JCG:mb

Enc.

cc: Mr. Norborne Stone
Mr. Charles Hoffman
Judge Hubert Hall

T. W. RICHARDSON,

Complainant and
Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and
Cross-Complainant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 3272

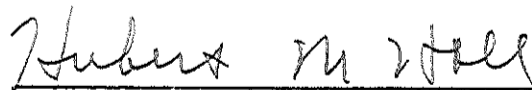
DECREE SUSTAINING DEMURRERS TO AMENDED CROSS BILL

This cause coming on to be heard was submitted to the Court on this day on the demurrer of the Complainant and Cross-Respondent to the amended cross-bill of the Respondent and Cross-Complainant and the several demurrers to the several aspects of said cross-bill and the Court, having considered the same, is of the opinion that the demurrers should be sustained; it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the demurrers of the Complainant and Cross-Respondent to the amended cross-bill of the Respondent and Cross-Complainant and to the several aspects thereof be and they hereby are sustained.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Respondent and Cross-Complainant be, and he hereby is, granted thirty (30) days in which to file additional pleadings in this cause.

Done this 1st day of November, 1955.


Circuit Judge.

T. W. RICHARDSON,

Complainant and Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and Cross-Complainant.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

MOTION TO STRIKE

Comes now the Complainant and Cross-Respondent in the above styled cause and moves this Honorable Court to strike Paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the amended answer and cross-bill heretofore filed by the Respondent and Cross-Complainant on February 25, 1955, and as grounds for said Motion assigns, separately and severally, the following:

1. That said answer is argumentive.
2. That said answer is evasive.
3. That said answer does not deny, admit or set up any matter in avoidance of the averments of the Bill of Complaint.
4. That said answer does not allege any additional facts in defense of the allegations contained in the Bill of Complaint.

DEMURRER TO AMENDED CROSS-BILL

Without waiving the foregoing Motion to Strike but expressly insisting thereon, comes now the Complainant and Cross-Respondent and demurs to the amended cross-bill filed with and made a part of the amended answer heretofore filed on February 25, 1955, and assigns the following separate and several grounds in support thereof:

1. There is no equity in the cross-bill.
2. There are no new facts presented by the cross-bill of equitable cognizance and there are no allegations in the amended cross-bill which would support a bill of complaint independent of the original bill of complaint.

3. It affirmatively appears from the allegations of the amended cross-bill that construed with the bill of complaint that said cross-bill is not necessary.

4. It affirmatively appears from the allegations of the amended cross-bill that the cross-complainant can obtain the full relief to which he is entitled under the original bill of complaint.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill attempting to establish the intention of the parties to the instrument which is attached to the bill of complaint, heretofore filed by the Respondent and Cross-Complainant and assigns the following separate and several grounds in support thereof:

1. There is no equity in the allegations of Paragraph 6 of the amended cross-bill.

2. The allegations of Paragraph 6 of the amended cross-bill are mere surplusage.

3. It affirmatively appears from the allegations of Paragraph 6 of the amended cross-bill that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.

4. The allegations of Paragraph 6 of the amended cross-bill are conclusions of the Pleader, and are mere hearsay.

Comes now the Complainant and Cross-Respondent and demurs to Paragraph 7 of the amended cross-bill and assigns the following separate and several grounds in support thereof:

1. That the allegations of Paragraph 7 are inconsistent.

2. That the allegations of Paragraph 7 allege no facts upon which relief can be granted.

3. That the allegations of Paragraph 7 are mere conclusions of the Pleader.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill wherein the Cross-Complainant attempts to establish a mutual mistake of the parties to the instrument which is attached to the bill of complaint and marked Exhibit "A" and by reference made a part thereof and assigns the following separate and several grounds in support thereof:

1. There is no equity in the said aspect of the amended cross-bill.

2. That Paragraph 8 of the amended cross-bill fails to allege facts which, in equity, would constitute a mutual mistake of the parties to a written instrument.

3. That the allegations of Paragraph 8 of the amended cross-bill are conclusions of the Pleader.

4. That the allegations of Paragraph 8 of the amended cross-bill are vague, indefinite and uncertain.

5. That it affirmatively appears from the allegations of Paragraph 8 of the amended cross-bill that the Cross-Complainant is attempting to vary or alter the terms of a written instrument by parol.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill which seeks to set up or establish that the deed, a copy of which is attached to the original bill of complaint and marked Exhibit "A" and by reference made a part thereof as written is a mistake of the scrivener and assigns the following separate and several grounds in support thereof:

1. There are no facts alleged in Paragraph 9 of the amended cross-bill which establish a mistake of the scrivener of said deed.

2. It affirmatively appears from the allegations of Paragraph 9 that the Cross-Complainant is attempting to vary the terms of a written instrument by parol.

3. It affirmatively appears from the allegations of the original bill of complaint and of Exhibit "A" which is attached thereto and by reference made a part thereof that the Cross-Complainant has recognized and accepted the said right of re-purchase as written.

4. It affirmatively appears from the allegations of Paragraph 9 of the amended cross-bill that the Cross-Complainant is seeking to introduce parol evidence of a transaction with a deceased person, to-wit; George E. Gray.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill wherein the Cross-Complainant alleges that the Complainant is estopped from seeking to have the alleged right of re-purchase of the real property described in the bill of complaint declared void and assigns the following separate

and several grounds in support thereof:

1. No facts are alleged by the Cross-Complainant which would, in equity, constitute an estoppel.

2. It affirmatively appears that the Cross-Complainant is seeking to vary the terms of a written instrument by parol.

3. The allegations of Paragraph 10 of the amended cross-bill are conclusions of the Pleader.

4. The allegations of Paragraph 10 of the amended cross-bill are hearsay.

5. It affirmatively appears that the Cross-Complainant is attempting to explain a written instrument by parol evidence.

6. That no facts are alleged in the amended cross-bill to show wherein a fraud is being perpetrated upon the Cross-Complainant either by the Complainant and Cross-Respondent or by this Honorable Court.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill wherein the Cross-Complainant alleges that the Complainant and Cross-Respondent has come into this Court of Equity with unclean hands and assigns the following separate and several grounds in support thereof:

1. That said allegation is merely a conclusion of the Pleader.

2. That no facts are alleged to show that your Complainant and Cross-Respondent has unclean hands.

3. It affirmatively appears from the allegations of Paragraph 11 that the Cross-Complainant is seeking to vary or alter the terms of a written instrument by parol.

4. That the allegations of Paragraph 11 are scandalous and impertinent.

Respectfully submitted,

CHASON & STONE

By: Melburn S. Stone
Solicitors for Complainant and Cross-Respondent.

T. W. RICHARDSON,	X	
Complainant and	X	
Cross-Respondent	X	IN THE CIRCUIT COURT OF
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
JAMES W. ROUNTREE,	X	IN EQUITY NO. 3272
Respondent and	X	
Cross-Complainant	X	
	X	

Comes now the Complainant and Cross-Respondent in the above styled cause, by his sclicitors, and demurs to the amended cross-bill heretofore filed by the Respondent and Cross-Complainant and to each aspect thereof separately and severally and assigns the following separate and several grounds in support thereof:

1. There is no equity in the/cross-bill.
2. The allegations of the cross-bill are conclusions of the pleader.
3. The allegations of the cross-bill are vague, indefinite and uncertain.
4. It affirmatively appears from the allegations of the cross-bill that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.
5. The allegations of the cross-bill fail to affirmatively state wherein there was any mutual mistake of the parties or a mistake of the scrivener in the deed which is attached to the original bill of complaint and marked Exhibit "A".
6. The allegations of the cross-bill fail to show a failure of any consideration for the execution of the deed which is attached to the original bill of complaint and marked Exhibit "A".
7. It affirmatively appears from the allegations of the cross-bill that the Cross-Complainant is not the owner of any valid and enforceable right or option to re-purchase the property in question.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill filed by the Respondent and Cross-Complainant wherein he seeks to have this Court declare void the entire instrument which is attached to the original bill of complaint and marked Exhibit "A", and assigns the following separate and several grounds in support thereof:

1. The allegations of said aspect are conclusions of the pleader.
2. It affirmatively appears from the allegations of the amended cross-bill that said instrument is not void in its entirety.
3. The allegations of said aspect that the purported right to re-purchase is an express condition subsequent is a conclusion of the pleader.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Respondent and Cross-Complainant wherein he offers to do equity and pay to the Complainant and Cross-Respondent an amount fixed by the Court for the re-purchase of the property involved under the terms of the deed which is attached to the original bill of complaint and marked Exhibit "A", and assigns the following separate and several grounds in support thereof:

1. It affirmatively appears from the allegations of the amended cross-bill that the Respondent and Cross-Complainant is not the owner of any valid, legal existing right to re-purchase the property here involved.

2. The allegations of said aspect are conclusions of the pleader.

3. It affirmatively appears from the allegations of the cross-bill that the Respondent and Cross-Complainant is not the transferee of any right to re-purchase the property here involved.

4. It affirmatively appears from the allegations of the cross-bill that the terms of the instrument with which the Respondent and Cross-Complainant alleges that he is ready, willing and able to comply are void.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Respondent and Cross-Complainant wherein the Respondent and Cross-Complainant

seeks to have the deed which is attached to the original bill of complaint and marked Exhibit "A", declared a lease only for a minimum period of two years and assigns the following separate and several grounds in support thereof:

1. There is no equity in said aspect of the cross-bill.
2. The allegations of said aspect are conclusions of the pleader.
3. It affirmatively appears from the allegations of said aspect that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.
4. The allegations of said aspect are inconsistent.
5. The allegations of said aspect are scandalous and impertinent.
6. No facts are alleged in said aspect to support the conclusions that the deed referred to is in legal effect a lease only.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Respondent and Cross-Complainant wherein the Respondent and Cross-Complainant alleges that if the purported right of re-purchase be void then the deed which is attached to the original bill of complaint and marked Exhibit "A", fails to express the true agreement and intent of the parties as a result of and through the mutual mistake of the scrivener and assigns the following separate and several grounds in support thereof:

1. There is no equity in said aspect.
2. It affirmatively appears that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.
3. No facts are alleged to show a "mutual mistake of the scrivener".
4. The allegations of said aspect are conclusions of the pleader.
5. The allegations of said aspect are inconsistent.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Res-

pondent and Cross-Complainant wherein the Respondent and Cross-Complainant alleges that the entire instrument which is attached to the original bill of complaint and marked Exhibit "A" is void and assigns the following separate and several grounds in support thereof:

1. There is no equity in said aspect.
2. The allegations of said aspect are conclusions of the pleader.
3. It affirmatively appears that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.
4. The allegations of said aspect are inconsistent.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Respondent and Cross-Complainant wherein the Respondent and Cross-Complainant alleges that the Complainant and Cross-Respondent is estopped to have declared void the purported right to re-purchase the real property described in the deed which is attached to the bill of complaint and marked Exhibit "A" and assigns the following separate and several grounds in support thereof:

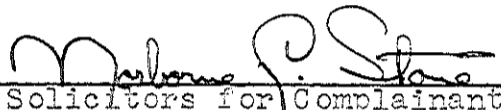
1. There is no equity in said aspect.
2. The allegations of said aspect are conclusions of the pleader.
3. It affirmatively appears from the allegations of said aspect that the Respondent and Cross-Complainant is attempting to vary the terms of a written instrument by parol.
4. It affirmatively appears from said aspect that the Respondent and Cross-Complainant is not the owner or holder of any right to re-purchase said property.

Comes now the Complainant and Cross-Respondent and demurs to that aspect of the amended cross-bill heretofore filed by the Respondent and Cross-Complainant wherein the Respondent and Cross-Complainant has invoked the aid of this Court of Equity with unclean hands on his part and assigns the following separate and several grounds in support thereof:

1. No facts are alleged to show wherein the Complainant and Cross-Respondent has come into Equity with unclean hands.
2. The allegations of said aspect are conclusions of the pleader.
3. It affirmatively appears from the allegations of said aspect that the Respondent and Cross-Complainant is attempting to vary and/or contradict the terms of a written instrument by parol.

Respectfully submitted,

CHASON & STONE

By: 
Solicitors for Complainant and
Cross-Respondent.

T. W. RICHARDSON,

Complainant and
Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and
Cross-Complainant

BOOK 004 PAGE 108

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO: 3272

DEMURRER TO CROSS-BILL

Comes now the Complainant and Cross-Respondent, by his Solicitors, and demurs to the Cross-Bill, as amended, heretofore filed in this cause by the Respondent and Cross-Complainant on December 8, 1955, and assigns the following separate and several grounds in support thereof:

1. There is no equity in the amended Cross-Bill.
2. It affirmatively appears from the allegations of the amended Cross-Bill that there is no factual controversy existing between the parties to this cause and that no independent equity is asserted by the amended Cross-Bill which could not be determined between the parties under the original Bill of Complaint.
3. No issues are made by the Cross-Bill which are necessary to a proper and complete construction and interpretation of the instruments and conveyances therein referred to.
4. It affirmatively appears from the allegations of the amended Cross-Bill that only a question of law is presented by the Bill of Complaint heretofore filed in this cause and that no issues of fact exist which are necessary to a complete determination of the equities of the parties to this cause.
5. The allegation of the amended Cross-Bill that "James W. Gray, et al.,did transfer, assign, set over and convey unto the said Respondent and Cross Complainant all of the rights and option to repurchase the said real property reserved unto the said James W. Gray, et al....." is a conclusion of the pleader.
6. It affirmatively appears from the allegations of the amended Cross-Bill that the purported option to re-purchase attempted to be reserved unto James W. Gray et al. in and by the terms of the

instrument which is attached to the Bill of Complaint and Marked Exhibit "A" is void and of no force and effect.

7. It affirmatively appears from the allegations of the amended Cross-Bill that the instrument, a copy of which is attached to the Bill of Complaint and marked Exhibit "E" did not convey, transfer or assign to the Respondent and Cross-Complainant any option to re-purchase the property therein described.


8. It affirmatively appears from the allegations of the Cross-Bill that the Respondent and Cross-Complainant has no option to re-purchase, or the right to exercise any option to re-purchase, the property described in the Bill of Complaint.

9. It affirmatively appears from the allegations of the Cross-Bill that the only right, title, interest, claim or demand which the Respondent and Cross-Complainant has in and to the property described in the Bill of Complaint is the trapping rights on said property.

Respectfully submitted,

CHASON & STONE

By:


Solicitors for Complainant and
Cross-Respondent.

T. W. RICHARDSON,

Complainant and Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and Cross-Complainant,

Y

Y IN THE CIRCUIT COURT OF

Y BALDWIN COUNTY, ALABAMA

Y IN EQUITY NO. 3272

Y

Y

This cause coming on to be heard was submitted upon the original Bill of Complaint and the amended answer and cross-bill of the Respondent and Cross-Complainant and the motion to strike the amended answer and the demurrer to the amended cross-bill and the Court having considered the same is of the opinion that the motion to strike the answer should be denied and the demurrer to the amended cross-bill should be sustained, it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the motion to strike the amended answer of the Respondent and Cross-Complainant be, and the same hereby is, denied.

It is further ORDERED, ADJUDGED and DECREED by the Court that the demurrer of the Complainant and Cross-Respondent to the amended cross-bill of the Respondent and Cross-Complainant be, and the same hereby is, sustained and the Respondent and Cross-Complainant is hereby given 30 days in which to file additional pleadings.

Done this 24th day of May, 1955.

Hubert M. Hall

Circuit Judge.

T. W. RICHARDSON,

Complainant and Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and Cross-Complainant,

Y

Y IN THE CIRCUIT COURT OF

Y BALDWIN COUNTY, ALABAMA

Y IN EQUITY NO. 3272

Y

Y

This cause coming on to be heard was submitted upon the original Bill of Complaint and the amended answer and cross-bill of the Respondent and Cross-Complainant and the motion to strike the amended answer and the demurrer to the amended cross-bill and the Court having considered the same is of the opinion that the motion to strike the answer should be denied and the demurrer to the amended cross-bill should be sustained, it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the motion to strike the amended answer of the Respondent and Cross-Complainant be, and the same hereby is, denied.

It is further ORDERED, ADJUDGED and DECREED by the Court that the demurrer of the Complainant and Cross-Respondent to the amended cross-bill of the Respondent and Cross-Complainant be, and the same hereby is, sustained and the Respondent and Cross-Complainant is hereby given 30 days in which to file additional pleadings.

Done this 24th day of May, 1955.

Hubert M. Hall

Circuit Judge.

T. W. RICHARDSON,

Complainant and Cross-Respondent,

vs.

JAMES W. ROUNTREE,

Respondent and Cross-Complainant.

]

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

]

IN EQUITY

]

ORDER

This cause coming on to be heard at the regular term of the call of the Equity Docket and it appearing to the Court that said cause should be set down for hearing to settle the pleadings therein and that Tuesday, May 24, 1955, at 10:00 o'clock a.m. should be fixed as the day to settle said pleadings, it is, therefore

ORDERED and DECREED by the Court that Tuesday, May 24, 1955, at 10:00 o'clock a.m. be, and the same hereby is, fixed as the day and time to settle the pleadings in the above styled cause, and, in particular, the Motion to Strike the answer of the Respondent and the demurrer to the cross-bill of the Respondent and that notice of the day set be given to the parties by the Register by mailing to each of the Attorneys of Record a copy of this order.

Done this 20 day of May, 1955.

Hubert M. Hall
Circuit Judge.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 58-59

To the REGISTER of the CIRCUIT Court of BALDWIN County, Greeting:

Whereas, the Record and Proceedings of the CIRCUIT Court IN EQUITY of said county, in a certain cause lately pending in said Court between JAMES W. ROUNTREE, Appellant, and T. W. RICHARDSON, Appellee, wherein by said Court it was considered adversely to said appellant, were brought before our Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

Now, it is hereby certified, That it was thereupon considered, ordered, adjudged, and decreed by our Supreme Court on the 8th day of JANUARY, 19 59, that said Decree appealed from of said Circuit Court be reversed and annulled, and the cause remanded to said court for further proceedings therein; and that it was further considered, ordered, adjudged, and decreed that the appellee: ~~pay~~ T. W. Richardson, pay * * * * *

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

Witness, J. Render Thomas, Clerk of the Supreme Court of Alabama, at the Judicial Department Building, this the 8th day of JANUARY, 19 59. J. Render Thomas Clerk of the Supreme Court of Alabama.

T. W. RICHARDSON,
Complainant,
vs.
JAMES W. ROUNTREE,
Respondent.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 3272

DECREE GRANTING MOTION TO STRIKE ANSWER

This cause coming on to be heard was submitted upon the Bill of Complaint, the Answer and Cross-bill of the Respondent and the Motion of the Complainant to strike the answer of the said Respondent. And the Court having considered the same and received the arguments of the counsel for the respective parties is of the opinion that the Motion to strike heretofore filed by the Complainant should be granted it is, therefore

ORDERED, ADJUDGED AND DECREED by the Court that the Motion of the Complainant, T. W. Richardson, to strike the answer of the Respondent, James W. Rountree, be, and the same is hereby granted and said answer is hereby stricken.

It is further ORDERED, ADJUDGED AND DECREED by the Court that the Respondent, James W. Rountree, shall have thirty days in which to file additional pleadings in this cause.

Done this 27th day of January, 1955.

Hubert M. Hill
Presiding Judge.

T. W. RICHARDSON	)	IN THE CIRCUIT COURT OF BALDWIN
Complainant and	)	COUNTY, ALABAMA
Cross-Respondent)	
vs.	)	IN EQUITY
JAMES W. ROUNTREE)	
Respondent and	)	No. 3272
Cross-Complainant)	

Come the parties in the above-styled cause and consent, stipulate and agree that the order of the Court entered, to-wit, 21 day of May, 1961, which order dismisses this cause for want of prosecution, be rescinded and avoided and that the above-styled cause be restored to the docket of this Court and fully reinstated thereon in all respects; and that such restoration have and receive by this consent and agreement the effect of re-filing and reinstatement of all pleadings in such cause and all rulings, orders and decrees thereon and in connection therewith, with the exception of said order of dismissal described above.

Melburn S. Stone, Jr.
Solicitor for the Complainant and
Cross-Respondent
Charles Hoffmann
Caffey, Gallager + Caffey
By: W. H. Caffey, Jr.
Solicitor for the Respondent and
Cross-Complainant

T. W. RICHARDSON

Complainant and
Cross-Respondent

vs.

JAMES W. ROUNTREE

Respondent and
Cross-Complainant

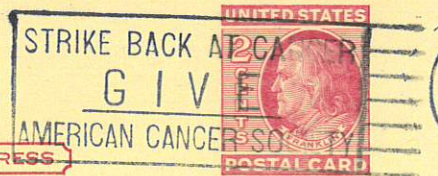
) IN THE CIRCUIT COURT OF BALDWIN
) COUNTY, ALABAMA
)
) IN EQUITY
)
)
) No. 3272

Come the parties in the above-styled cause and consent, stipulate and agree that the order of the Court entered, to-wit, 21 day of May, 1961, which order dismisses this cause for want of prosecution, be rescinded and avoided and that the above-styled cause be restored to the docket of this Court and fully reinstated thereon in all respects; and that such restoration have and receive by this consent and agreement the effect of re-filing and reinstatement of all pleadings in such cause and all rulings, orders and decrees thereon and in connection therewith, with the exception of said order of dismissal described above.

Marlboro G. Stone, Jr.
Solicitor for the Complainant and
Cross-Respondent
Charles Hoffman
Coffey, Gallaga & Coffey
By: W. W. Coffey, Jr.
Solicitor for the Respondent and
Cross-Complainant



THIS SIDE OF CARD IS FOR ADDRESS



MRS. ALICE J. DUCK
REGISTER BALDWIN CIRCUIT COURT
BOX 239
BAY MINETTE, ALABAMA

1st Div. No. 669 Baldwin Circuit Court
JAMES W. ROUNTREE Appellant.
Equity

vs.

T. W. RICHARDSON Appellee.

Dear Sir:

The TRANSCRIPT in the above case
was today received and filed in this office.

Yours truly,

J. RENDER THOMAS,
Clerk Supreme Court.

MAY 23, 1956.



THIS SIDE OF CARD IS FOR ADDRESS



MRS. ALICE J. DUCK
REGISTER BALDWIN CIRCUIT COURT
BAY MINETTE,
ALABAMA

1st Div. No. 669 Baldwin Circuit Court
JAMES W. ROUNTREE In Equity-No. 3272

Appellant.

vs.

T. W. RICHARDSON

Appellee.

Dear Sir:

The CERTIFICATE OF APPEAL in the above case
was today received and filed in this office.

Yours truly,

J. RENDER THOMAS,

Clerk Supreme Court.

MARCH 10, 1956

OFFICE OF
CLERK OF THE SUPREME COURT
STATE OF ALABAMA
MONTGOMERY



Mrs. Alice J. Duck
Register Baldwin Circuit Court
Box 239
Bay Minette, Alabama

OFFICE OF
CLERK OF THE SUPREME COURT
STATE OF ALABAMA
MONTGOMERY

J. RENDER THOMAS
CLERK

February 7, 1962

Mr. Jack L. Carroll
Bond Department
Maryland Casualty Company
75 Marietta Street Building
Atlanta 3, Georgia

Re: James W. Rountree

vs.

T. W. Richardson

Baldwin Circuit Court, In Equity
No. 3272

Dear Mr. Carroll:

In reply to your letter of February 6, 1962, I wish to advise that this case was reversed and remanded on January 8, 1959, and the costs of appeal taxed against Appellee, T. W. Richardson.

The attorney for Appellee, Mr. Norborne C. Stone of Bay Minette, Alabama, was furnished a bill of costs. Same not having been paid, execution was issued for costs of Supreme Court on April 16, 1959 and again on October 2, 1959. To date, the Sheriff has not made a return on either of these writs. If he makes a return of "No Property Found," then under Title 11, Section 7 of the Code of Alabama of 1940, execution may be issued against the appellant and sureties on the appeal bond. (The costs to date amount to \$18.25.) However, we cannot proceed under this section until the Sheriff makes a return of "No Property Found."

You may ascertain from the Register of the Circuit Court of Baldwin County in Bay Minette whether or not the costs of the circuit court have been paid.

Trusting this to be the information you desire, I am

Very truly yours,

J. Render Thomas

J. Render Thomas, Clerk
Supreme Court of Alabama

Alice J. Duck

CC: Norborne C. Stone

Sheriff Taylor Wilkins

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P
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August 22, 1962

Caffey, Gallalee & Caffey
Attorneys at Law
First National Bank Bldg.
Mobile, Alabama

Attention: Mr. Gallalee

Dear Sir:

Re: T.W. Richerson
vs: James W. Roundtree
No. 3272

This will acknowledge receipt of your letter dated July 30, in reference to the above style case, and since that time, I have been trying to catch up with Mr. Stone to find out if he objected to having the cost of recording taxed as part of the cost. I succeeded in contacting him yesterday and he did object to these costs being added, so just as soon as he pays the other cost, I will mail the deeds to you which you may have recorded along with the decree which I am enclosing.

If there is anything else that I can do in this case, please do not hesitate to call on me.

Yours very truly,

Register.

Enc.

AJD/eb