

DURK McNEAL AND
CALLIE McNEAL

COMPLAINANTS

VS

CLYDE DURN AND LIZZIE
DURN

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 3588

DEMURRERS

Comes now the Respondents in the above styled cause and demur to the Complainants' complaint and for grounds therefor say as follows:

1.

That the Complainants' complaint is vague, indefinite and uncertain.

2.

There is no equity in the bill.

3.

The bill does not allege sufficient facts to grant him the relief
prayed for.

4.

The bill of complaint does not set out the instrument it seeks to be
have reformed.

5.

The Bill does not apprise the Respondents of what they are called
upon to defend.

6.

The Complaint fails to show that the Complainants had title to the
property now in litigation on November 8, 1953.

7.

For aught appearing the Complainants knew they were signing a warranty
deed at the time alleged in the Complainant's Complaint.

8.

For aught appearing the lands in dispute are not located in Baldwin
County, Alabama.

~~2698~~ 3588

DUNK McNEAL AND
CALLIE McNEAL

COMPLAINANTS

VS

CLYDE DUNN AND
LIZZIE DUNN

RESPONDENTS

DEBARRERS

FILED

AUG 17 1955

ALICE J. DUCK, Clerk

5

The Bill of Complaint does not allege fraud nor mutuality of mistake at the time the deed was signed.

Walters & Brantley

Re: Robert M. Brantley
Solicitor for Clyde Dunn and Lizzie
Dunn.

DUNK McNEAL AND
CALLIE McNEAL

COMPLAINANTS

VS

CLYDE DUNN AND
LIZZIE DUNN

RESPONDENTS

IN THE CIRCUIT COURT OF

SALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 3588

Comes now the Respondents in the above styled cause and for answer to the Complainants' Amended Bill of Complaint says:

1.

That they admit the allegations of Section 1.

2.

That they deny the allegations of Section 2 thereof and demands strict proof of the same.

Walters & Brantley

BY:

Sallert M Brantley
Attorneys for the Respondents

3588

DUNK McNEAL AND
CALLIE McNEAL

COMPLAINANTS

VS

CLYDE DUNN AND
LIZZIE DUNN

RESPONDENTS

ANSWER

Filed 4-13-56
Aice French Clerk

AMENDED BILL OF COMPLAINT

Dunk McNeal and	§	In the Circuit Court of
Callie McNeal	§	Baldwin County, Alabama
Complainants	§	In Equity, No. 3588
vs	§	
Clyde Dunn and	§	
Lizzie Dunn	§	
Respondents	§	

To the Honorable Judge of the Circuit Court of Baldwin County, Alabama in Equity:

Your Complainants respectfully represents and shows unto your Honor as follows:

1.

That they are over the age of Twenty-One years and bona fide residents of Baldwin County, Alabama. And that the Respondents are over the age of Twenty-one years and resident citizens of Baldwin County, Alabama.

2.

3

That on to-wit November 14, 1955, your Complainants borrowed an amount of money, to-wit Two Hundred Thirty and 78/100 dollars from the Respondent, Clyde Dunn and your Complainants were fraudulently induced to sign an instrument to him, purporting to be a Mortgage, by his representation to them, on their home at Perdido, Alabama, in Baldwin County, owned by them, said loan to be repaid in two years, which said instrument was later found to be a Warranty Deed to said property. Your Complainants are two illiterate colored folk and did not know the difference. Said Deed is recorded in 203 N. S. 106, Baldwin records and is here set out verbatim, to-wit;

State of Alabama, Baldwin, County
Filed 11-18-53 10:30 A.M.

Recorded 1 Book Page

And I certify that the following
privilege tax has been paid.

Deed Tax 50

Mortgage Tax

W. R. Stuart

Judge or Probate

By G

WARRANTY DEED

STATE OF ALABAMA
COUNTY OF BALDWIN

KNOW ALL MEN BY THESE PRESENTS: That we, Dunk McNeal and Callie McNeal, Husband and wife, Grantors, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to us in hand paid by Clyde Dunn, Grantee, the receipt of which is hereby acknowledged, do hereby Grant, Bargain sell and convey unto the said Clyde Dunn the following described real property in Baldwin County, Alabama, to-wit:

Begin at the N.E. Corner of the S.W. quarter of Section 25, Township 1 North, Range 4 East, run South 150 yards to a place for beginning; thence West 188 1/2 yards, South 105 yards, thence East 188 1/2 yards, thence North 102 yards to place of beginning, containing ^{4 acres} more or less in Baldwin County, Alabama.

together with all and singular the rights, members, privileges tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

To have and to hold unto the said Clyde Dunn, his heirs and assigns forever. And we do covenant with the said Clyde Dunn that we are lawfully seized in fee simple of the said premises; that we are in the quiet and peaceable possession of the same; that we have a good right to sell and convey the same as aforesaid; that said premises are free from all liens and encumbrances; and that we will and our heirs and assigns will forever warrant and defend the title to and the possession of the same unto the said Grantee, his heirs and assigns against the lawful claims of all persons whomsoever.

In Witness whereof, we have hereunto set our hands and seals on this the 14 day of November, 1953.

Dunk McNeal (SEAL)

Callie McNeal (SEAL)

STATE OF ALABAMA
BALDWIN COUNTY

I, John H. Huff, ~~Notary Public~~ Justice of the Peace in and for said County in said State, hereby certify that Dunk McNeal and Callie McNeal, his wife, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that being informed of the contents of said conveyance they executed the same voluntarily on the day the same bears date.

And I do further certify that on the 14 day of November, 1953 came before me the within named Callie McNeal, known to me to be the wife of the within named Dunk McNeal, and who being examined separate and apart from her husband touching her signature to the within Conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of her husband.

Given under my hand and seal on this the ~~22~~ 14 day of November, 1953.

John H. Huff
~~Notary Public~~, Baldwin County, Alabama
Justice of the Peace

Complainants allege that they have been paying on that indebtedness to Respondents every since they borrowed said money.

3.

Complainants prays that upon the filing of this Bill of Complaint that proper ~~issue~~ ^{process} be issued to Clyde Dunn and Lizzie Dunn, making them party Respondents to this bill of complaint and requiring them to plead, answer or demur to the allegations thereof within the time required by law and the rules of this Honorable Court.

Complainants further pray that upon a final hearing of this cause that your Honor will declare said instrument signed by your Complainants to Respondents to be a Mortgage and determine the amount still due the Respondents thereunder.

Complainants pray for such other, further, different or general relief as they may be entitled to in the premises and they offer to do such Equity in the premises and as may be required of them.

Paul H. McFarley
Solicitor for Complainants

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Clyde Dunn and Lizzie Dunn to appear within thirty days from the service of this writ in the Circuit Court in Equity, to be held for said County at the place of holding the same, then and there to answer to the Complaint of Dunk McNeal and Callie McNeal

Witness my hand, this 9th day of Aug. 1955.

Alice J. Duck
Register

Dunk McNeal and
Callie McNeal

Complainants

Vs

Clyde Dunn and
Lizzie Dunn

Respondents

In the Circuit Court of
Baldwin County, Alabama
In Equity. No. _____

To the Honorable Judge of the Circuit Court of Baldwin County,
Alabama in Equity:

Your complainants respectfully represents and shows unto
your Honor as follows:

1.

That they are over the age of twenty-one years and bona fide residents of Baldwin County, Alabama. And that the Respondents are over the age of Twenty-One years and resident citizens of Baldwin County, Alabama.

2.

That on to-wit November 8, 1953, your Complainants borrowed an amount of money, to-wit Two Hundred Thirty and 78/100 dollars from the Respondent, Clyde Dunn and your Complainants signed an instrument to the Respondents purporting to be a Mortgage on their home at Perdido, Alabama said loan to be repaid in two years, which said instrument was later found to be a warranty deed to said property. Your Complainants are two illiterate colored folk and did not know the difference. Said Deed is recorded in 203 N.S. 106, Baldwin County records. Complainants allege that they have been paying on that indebtedness to Respondents every since they borrowed said money.

3.

Complainants prays that upon the filing of this bill of complaint that proper process issue to Clyde Dunn and Lizzie Dunn, making them party Respondents to this bill of complaint and requiring them to plead, answer or demur to the allegations thereof within the time required by law and the rules of this Honorable Court.

Complainants further pray that upon a final hearing of this cause that your Honor will declare said instrument signed by your Complainants to Respondents to be a Mortgage and determine the amount still due the Respondents thereunder.

Complainants pray for such other, further, different or general relief as they may be entitled to in the premises and they offer to do such Equity in the premises as may be required of them.

Robert A. McNeal
Solicitor for Complainants

DUNK MCNEIL, ET AL.,
Complainants,
VS.
CLYDE DUNN, ET AL.,
Respondents.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. IN EQUITY.
NO. 3588

This cause coming on to be heard is submitted upon the original complaint filed August 9, 1955, demurrer to the original complaint filed August 17, 1955, decree sustaining demurrer to the original bill of complaint, dated February 22, 1956, amended complaint filed March 16, 1956, answer filed April 13, 1956, and order of the Court setting the matter for a final hearing on May 2, 1956.

And the Court, after considering the matter and hearing the testimony of witnesses for the Complainants and the Respondents ore tenus, is of the opinion that the Complainants are not entitled to the relief prayed for.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the original and amended complaint on behalf of the Complainants be, and the same are hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DE CREED that the costs herein be taxed against the Complainants, for which execution may issue.

Dated at Bay Minette, Alabama, this 2nd day of May, 1956.

Hubert M. Hill
Judge of the 28th Judicial
Circuit of Alabama.

DUNK McNEIL; ETAL,

Complainants,

VS.

CLYDE DUNN, ET AL.,

Respondents.

IN THE

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

IN EQUITY.

No. 3588

This cause being regularly called, on this a regular day for the calling of the docket of this Court, and the parties not answering,

IT IS ORDERED by the Court that this cause be continued until May 2, 1956.

IT IS FURTHER ORDERED that this cause be, and it is hereby set down for the taking of testimony, and submission for final decree on May 12th, 1956, at the Courthouse in Bay Minette, Alabama, beginning at 10 A. M.

It is further ORDERED that a copy of this order be mailed to the respective Solicitors of Record for the parties to this cause.

This 17th day of April, 1956.

Robert M. Lee
Judge, 28th Judicial Circuit

FILED

APR 18 1956

ALICE J. BOCK, Register

DUNK McNEEL AND
CALINE McNEEL

COMPLAINANTS

VS

CLYDE DUNN AND LIZZIE
DUNN,

RESPONDENTS

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IN THE CIRCUIT COURT OF

Ø

BALDWIN COUNTY, ALABAMA,

Ø

IN EQUITY

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CASE NO. 3588

DECREE SUSTAINING DEMURRERS

This cause coming on to be heard upon the demurrers of the Respondents to the original Bill of Complaint and the Complainants and Respondents appearing in open court by their attorney and after hearing the arguments of counsel for both parties, the Court is of the opinion that the said demurrers should be sustained.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court, that the same be and they are hereby sustained, that the Complainants be allowed thirty days from this date within which to amend the bill of complaint.

Done and ordered this 22nd day of February, 1956.

Hubert M. Hall
CIRCUIT JUDGE

NEW HAVEN AND CHILLI HALL

COMMUNIST

is

STILL JOHN AND JACOBIA HALL

RECORDS

RECORDED

LOCAL RECORDING BUILDING

FILED

1956

State & Black Register

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