

2690

JAMES T. HARRIS

JAMES T. HARRIS

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JAMES T. HARRIS

18. 1890

Now comes the respondent and moves to set aside complainant's bill of complaint, as amended February 3, 1933, as to each paragraph thereof separately and say only as for grounds of dismissal says:

1. That the said bill is without equity.
2. That the complainant has a full, complete and adequate remedy at law.
3. That the said bill is too vague and indefinite.
4. That the said bill is so vague and indefinite that it cannot be enforced.
5. That the said bill shows on its face that the matters set out have already been adjudicated by a court of competent jurisdiction.
6. That the said bill shows on its face that the matters therein alleged are not justiciable.
7. That the complainant alleges no tort of fraud, duress or coercion by said defendant or by any person acting for him in the procurement of said conveyance and release.
8. Said complaint does not allege, what, specifically, if any, were refused by complainant to respondent.
9. Said bill of complaint does not allege that this court can and hold as accounting to between the complainant and respondent.
10. Said complaint does not allege that respondent seeks to have this court compel the respondent to account for.
11. Said bill of complaint does not allege any fraud by the respondent, or any undue influence, or coercion exercised by the respondent over the complainant to induce her to execute a release.
12. Said bill of complaint does not allege that the complainant

and owned any personal property or any interest which was conveyed to the respondent.

- 13. Said complaint does not allege any facts authorizing the complainant to the relief prayed for.

- 14. Said complaint shows on its face that this action is barred by the statute of limitations.

- 15. Said complaint shows on its face that the complainant is guilty of laches.

16. Said claim seeks an accounting for personal properties alleged owned jointly by complainant and defendant and conveyed by complainant to defendant by deed attached as exhibit A and said exhibit shown on its face that it did not convey or purport to convey personal property jointly owned by them.

17. It does not appear from said complaint that the conveyance shown as exhibit A was without consideration.

18. That said bill of complaint is multifarious.

FILED

2-28-53

ALICE J. DECK, Register

W. C. Beebe
Attorney for Defendant

113-310

RECORDED

Added to the
Cyclopedia
July 10, 1911

FILED

2-28-57

ALICE L. DICK, CLERK

EVELYN VITOUS HANAK
COMPLAINANT

VS

ALBERT VITOUS
RESPONDENT

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

WHEREAS, it has been made known to me that ~~Hon. Telfair J. Mashburn, Jr.~~,
Judge of the Circuit Court of Baldwin County, Alabama, has declared himself
incompetent to try, hear, or render judgment in the above styled cause
because of his ~~having been counsel~~ to one of the parties hereto, ~~at one time~~
in reference to matters now in dispute, and does declare such incompetency
and rescues himself from presiding upon hearing of said cause,

WHEREAS, ~~Hon. John Chason~~ possesses the qualifications of a Circuit
Judge as provided ~~in~~ the law, and is a proper person to be appointed as
Judge to hear said cause,

I therefore appoint ~~Hon. John Chason~~ to preside as Judge in this said
cause ^{to} which is set down for hearing ~~June 4 1952, at 10:00 o'clock.~~

witness my hand

Heidi L. Couch
Register in Equity

EVELYN VITOUS HANAK

Complainant

vs

ALBERT VITOUS,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 2690

Comes the defendant in the above styled cause and moves the Court to strike the amended complaint filed in the said cause October 18, 1952, and for grounds for such motion shows that:

First: Decree sustaining defendant's demurrers to the original bill of complaint was made and entered by this Court June 4, 1952. That under the statutes made and provided the complainant had twenty days in which to amend her bill of complaint and that more than twenty days elapsed before the filing of the said amended complaint.

Second: The complainant's amended bill of complaint was filed more than twenty days after the decree of this court sustaining demurrers to her original bill of complaint as amended and no cause is shown to this Court that would excuse complainant's delay.

Third: More than twenty days having elapsed since this Honorable Court sustained defendant's demurrers to the complainant's original bill of complaint, the complainant does not show leave of this Court to file this amended complaint.

FILED

OCT. 20, 1952

ALICE J. DUCK, Register

[Signature]
Solicitor for Defendant

Emile Vitous Hanak
Complainant
RECORDED

Albert Vitous
Defendant

Motion to strike
Amended Complaint

FILED
JUL 20 1952
ALICE J. BUCK, Register

EVELYN VITOUS HANAK
Complainant
VS
ALBERT VITOUS,
Respondent

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

No. 2690

Comes the defendant in the above styled cause and files the following additional grounds for his motion to strike the amended complaint filed in this cause October 18, 1952:

A: That the bill of complaint as amended does not meet the demurrers heretofore sustained to the original bill.

B: Said bill of complaint as amended does not allege any facts upon which this court could grant to the complainant the relief prayed for.

FILED
Jan. 22, 1953
ALICE J. DUCK, Register

W.C. Beebe
Solicitor for Defendant

Copy mailed to Talbert Brantley
Jan 21, 1952.
W.C. Beebe

Equity 2690

1-21-52 Decree sustaining respondents' Demurrer;
Complainant excepts. J. J. M., Jr.

6-4-52 Decree overruling motion to strike
and sustaining Demurrer to amended
bill of complaint. John Chason
Special Judge

10-2-52 Cause re-set for Oct. 8, 1952
John Chason, Special Judge

1-30-53 Order denying motion

3-18-53 Continued

Headings

7-30-51 complaint 8-1-51 Excepted
8-14-51 Demurrer
8-15-51 motion
1-25-52 Amended complaint
2-26-52 motion to strike & demurrer
4-10-52 Denial of removal
10-18-52 Amended complaint
10-20-52 motion to strike
1-22-53 additional motion
2-7-53 Amended Comp 2-16-53 excepted

2-28-53 Demurrer
4-24-53 Amended comp.
11-20-53 Demurrer

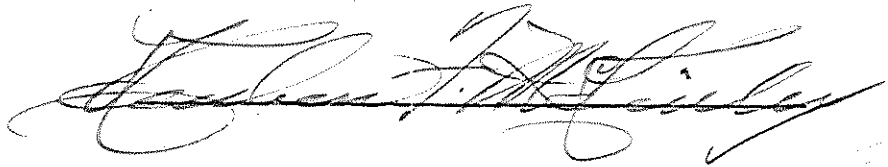
Reuben F. McKinley
Attorney at Law
Bay Minette, Alabama
October 3, 1952

Mrs. Alice J. Duck
Clerk of The Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

Several months ago I notified you orally of my withdrawal from the Case of Hanak Vs Vitous. You mentioned that a letter of withdrawal would not be necessary. However, having been bothered by parties to this cause a great deal recently, I believe it to be essential to my not being disturbed by continued conferences as to this matter, to have this letter in the files of the court as official notice of my withdrawal.

Yours Very Truly

A handwritten signature in cursive script, appearing to read "Reuben F. McKinley", written in dark ink.

RFM:

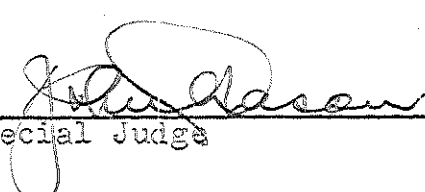
EVELYN VITOUS HANAK, | IN THE CIRCUIT COURT OF
 Complainant |
 vs | BALDWIN COUNTY, ALABAMA
ALBERT VITOUS, |
 Respondent | IN EQUITY, NO. 2690

Demurrers to the bill of complaint as amended having been sustained on the 15th day of August, 1955, and the complainant having been given thirty days in which to amend her complaint and she having failed to amend the same or to further plead in the said cause, and the same being called in open court the defendant's attorney moved that the same be dismissed, and complainant's attorney being present in court and not offering to further plead and the said motion being considered by the court the court is of the opinion that the same should be granted;

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that defendant's motion to dismiss is granted and the said cause be and the same is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the complainant pay the cost in this cause for which let execution issue.

Done this the 18th day of October, 1955.


Special Judge

FILED
OCT 19 1955
ALICE J. WALKER, Register

BOOK 143 58
STATE OF ALABAMA

BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS, That I, EVELYN VITOUS, wife of ALBERT VITOUS, Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to me in handpaid by ALBERT CITOUS, Grantee, the receipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the Grantee, all the following described real property situated in Baldwin County, Alabama, to-wit:

Southeast quarter of Southwest quarter; South half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

And for the same consideration the Grantor does hereby Grant, Bargain, Sell and convey to the Grantee al her right, title and interest in and to anyand all other real property owned by the Grantee, and all personal property and equipment of every kind, nature and description owned by the Grantee.

TO HAVE AND TO HOLD with the appurtenances thereunto belonging unto the Grantee, his heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal on this the 16th day of May, 1949.

Mrs Evelyn Vitous (SEAL)

STATE OF ALABAMA
BALDWIN COUNTY

I, Montae, a Notary Public, in and for said County, in said State, hereby certify that Evelyn Vitous, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 19th day of May, 1949.

STATE OF ALABAMA, BALDWIN COUNTY

Filed 7-6-49

9.21.49

Recorded _____ book _____ page _____
and I certify that the following Privilege Tax
has been paid.

Deed Tax

50

Mortgage Tax

W.B. Stuart
Judge of Probate

By N.

Montae
Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA,
Baldwin County.

PROBATE COURT

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify
that the within and foregoing Deed pages

contain a full, true and complete copy of the

Mrs. Evelyn Vitous to Albert Vitous

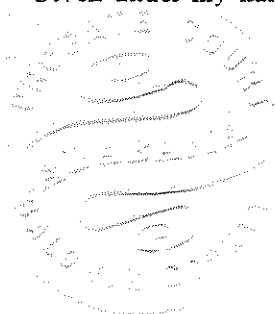
as the same appears of record in my office in Deed Book No. 143

Page 58

Given under my hand and seal of office, this 28 day of October, 1949

WR Stuart

Judge of Probate.



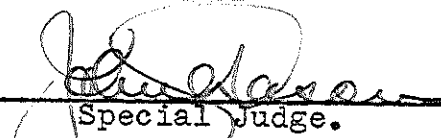
EVELYN VITOUS HANAK,
Complainant,
vs.
ALBERT VITOUS,
Respondent.

I
I IN THE CIRCUIT COURT OF
I BALDWIN COUNTY, ALABAMA
I IN EQUITY NO. 2690.
I

This matter coming on to be heard on demurrer to the amended bill of complaint, which said bill of complaint was filed April 24, 1953, and the Court having considered the same is of the opinion that the demurrer to said amended bill of complaint should be sustained.

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that the demurrer to said amended bill of complaint is hereby sustained and the Complainant is given twenty (20) days in which to amend her bill of complaint.

Done this August 17th, 1955.


Special Judge.

EVELYN VITOUS HANAK,
Complainant,
vs.

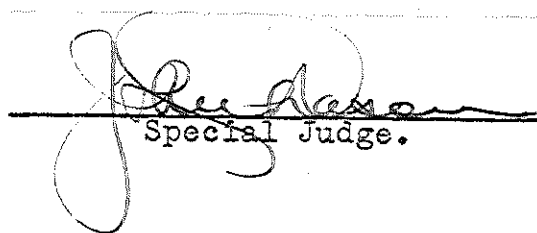
ALBERT VITOUS,
Respondent.

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

This cause coming on to be heard is submitted on Respondent's demurrer to the Bill of Complaint as amended, and the same being considered by the Court, the Court is of the opinion that such demurrer should be sustained.

It is therefore ORDERED, ADJUDGED AND DECREED by the Court that the Respondent's demurrer to the Bill of Complaint as amended, be and the same is hereby sustained.

Done this 4th day of June, 1952.


Special Judge.

RECORDED

ORDER SUSTAINING DEMURRER

EVELYN VITOUS HANAK,
Complainant,
vs.
ALBERT VITOUS,
Respondent.

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

Filed
10-5-52
Deice L. Luck
Register

EVELYN VITOUS HANAK,
Complainant,
vs.
ALBERT VITOUS,
Respondent.

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

This cause coming on to be heard on Respondent's motion to strike the Bill of Complaint as amended, and the same being considered by the Court, the Court is of the opinion that the Respondent's motion to strike such amended Bill of Complaint should be denied.

It is therefore ORDERED, ADJUDGED AND DECREED by the Court that the Respondent's motion to strike the amended Bill of Complaint be and the same is hereby denied.

Done this 4th day of June, 1952.


Special Judge.

ORDERED JANUARY 1952

ALBERT VITOUS

Respondent

vs.

EVELYN VITOUS HANAK

Complainant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

RECORDED

ORDER DENYING MOTION TO STRIKE

EVELYN VITOUS HANAK,

Complainant,

vs.

ALBERT VITOUS,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

Filed 6-5-52
Alice French
Registrar

EVELYN VITOUS HANAK,

Complainant,

VS.

ALBERT VITOUS,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2690.

DECREE OF RECUSAL

It appearing to the undersigned that in the further progress of the above styled cause in this Court it is appropriate that the undersigned recuse himself from further sitting as Judge therein on account of his being familiar with the facts in the case and having a preconceived opinion; IT IS THEREFORE ORDERED as follows:

That the undersigned does hereby recuse himself from sitting as Judge in the above styled cause, and the Clerk is directed to enroll this Order on the minutes of this Court.

ORDERED this 9th day of April, 1952.

Jeffrey G. Madlener, Jr.
Judge

RECORDED

FILED

JAN 25 1952

ALICE A. DUCK, Register

ORDER DENYING MOTION TO STRIKE

EVELYN VITOUS HANAK,

Complainant

VS.

ALBERT VITOUS,

Respondent.

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

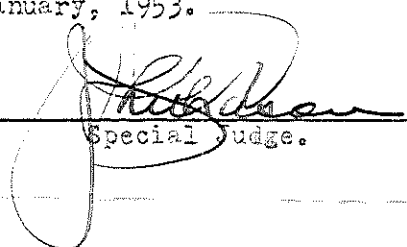
IN EQUITY

CASE NO. 2690

This cause coming on to be heard on Respondent's motion to strike the amended complaint, filed in this cause October 18, 1952, and the same being considered by the Court, the Court is of the opinion that the Respondent's motion to strike such amended Bill of Complaint should be denied.

It is therefore ORDERED, ADJUDGED AND DECREED by the Court that the Respondent's motion to strike the amended Bill of Complaint be and the same is hereby denied.

Done this 23rd day of January, 1953.


Special Judge.

ORDER DENYING MOTION TO STRIKE

EVELYN VITOUS HANAK,

Complainant,

VS.

ALBERT VITOUS,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY

CASE NO. 2690.

RECORDED

FILED

JAN 30 1953

ALICE L. DUCK, Register

EVELYN VITOUS HANAK
COMPLAINANT

VS

ALBERT VITOUS
RESPONDENT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. _____

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Now comes the Complainant by her Solicitor, Reuben F. McKinley and moves this Honorable Court to set a date to hear and determine this cause

FILED

11-16-1955

ALICE J. RUCK, Register

Reuben F. McKinley
Solicitor for the Complainant

RECORDED

EVELYN VITOUS HANAK

COMPLAINANT

VS

ALBERT VITOUS

RESPONDENT

MOTION

From the law office of
Rouben E. McKinley
Bey Minette, Alabama

Filed 11-6-51
Archie J. Ruck
Registrar

| | | |
|---------------------|---|--------------------------|
| EVELYN VITOUS HANAK | I | IN THE CIRCUIT COURT OF |
| COMPLAINANT | I | |
| VS | (| BALDWIN COUNTY, ALABAMA, |
| ALBERT VITOUS | I | |
| RESPONDENT | I | IN EQUITY |

Comes the respondent in the above styled cause and further demuring to complainant's bill of complaint, says:

A. Said bill of complaint does not allege that the complainant had any interest in any property released by the complainant to the respondent.

B. Said complaint does not allege properties were released by complainant to respondent.

C. Said complaint does not allege what properties, if any, were released by complainant to respondent.

D. Said bill of Complaint alleges no facts upon which this court can order and hold an accounting as between the complainant and respondent.

E. Said complaint alleges no facts on which this Court could require respondent to reconvey properties to her.

F. Said complaint does not allege what properties complainant seeks to have this court compel the respondent to reconvey to her.

G. Said bill of complaint does not allege any fraud by the respondent, or any undue influence or compulsion exercised by the respondent over the complainant to induce her to execute a release.

H. Said bill of complaint does not allege that the complainant owned any property which she conveyed to the respondent.

I. Said complaint does not allege any facts authorizing the complainant to the relief prayed for.

FILED

Jan. 21 1952
1955

ALICE J. DUCK, Register

W. B. Beck
Solicitor for Respondent.

Evelyn Vitous ^{Hamp}
112
Albert Vitous

RECORDED

Dismissed

29.15
08
47

Filed Jan 21, 1952

January 21, 1952
Jeffrey J. Prosser
Jed 92

EVILANT VICIOUS HARMER
COMPLAINANT
VS
ALBART VICIOUS
RESPONDENT

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

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Now comes the Complainant by her Solicitor, Reuben F. McKinley and moves this Honorable Court to set a date to hear and determine this cause

FILED

11-6 1957

ALICE J. GASK, Register

Reuben F. McKinley
Solicitor for the Complainant

RECORDED

REVELYN VITOUS HANAK

COMPLAINANT

VS

ALBERT VITOUS

RESPONDENT

MOTION

From the law office
of Reuben F. McKinley
Bay Minette, Alabama

*Filed 11-6-51
Avis L. Muck
Registrar*

EVELYN VITOUS HANAK

COMPLAINANT

VS

ALBERT VITOUS

RESPONDENT

*
* IN THE CIRCUIT COURT OF
*
* BALDWIN COUNTY, ALABAMA.
*
* IN EQUITY.
*
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*
*TO HONORABLE TELFAIR J. MASHBURN JR. JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA:

Now comes the complainant in the above styled cause and respectfully moves Your Honor and this Honorable court to require the Honorable H. M. Hall, Attorney at Law, Bay Minette,, Alabama to recuse himself from being, Solicitor for the Respondent, in this matter, and for grounds for this motion assigns the following:

1.

That on-to-wit, May 20, 1949, the Honorable H. M. Hall was Solicitor for complainant in a divorce action, case no. 2291, between the complainant and respondent in the above styled cause, in which the property, subject of this suit was one of the points in issue, and therefore the Honorable H. M. Hall knows both sides of this case and is therefore disqualified because of previously being Solicitor for the Complainant in this cause in the previous suit, to be Solicitor for the Respondent in this.

FILED

10-15-1951

ALICE L. DICK, Register

Stephen T. McFarley
Solicitor for Complainant

Evelyn Vitous Hanak,
Complainant

vs
Albert Vitous,
Respondent

RECORDED

Motion

FILED
AUG 18 - 1951
ALICE J. DUCK, Register

- 2 -

There was included in this deed, a conveyance; from your Complainant to the Respondent, of all her interest in the personal property they jointly owned.

6.

The deed recited a consideration of TEN (\$10.00) DOLLARS and other good and valuable consideration. Your Complainant avers that she has received no consideration for this conveyance.

7.

Your Complainant further avers that at the time this instrument was executed and for a long time prior thereto she suffered from a physical ailment that caused her to be frustrated and nervous and which caused her much physical pain.

8.

Your Complainant further avers that during their married life the Respondent on various occasions committed physical violence on her; that he abused her, dominated her actions and that she was afraid of him. That this continued up to a time just prior to this divorce.

9.

Your Complainant avers that she did not convey the property described herein voluntarily, but says that she signed the instrument of conveyance as a result of the duress, coercion and intimidation of the Respondent.

10.

Your Complainant avers that the Respondent to this cause has been in possession of and had the use of the above described property since the time of their divorce.

PRAYER FOR RELIEF

A.

The Premises considered your Complainant prays that Your Honor will declare, the conveyance herein referred to, null and void.

B.

The Complainant further prays that Your Honor will require Respondent to give an accounting of all the property jointly owned by the Complainant and Respondent, both personal and real, just prior to the conveyance herein referred to. Your Complainant further prays that Your Honor will require Respondent to give an accounting for the use and profits of the above described real estate and personal property for the period of time for which he has had possession.

| | | |
|----------------------|---|--------------------------|
| EVELYN VITOUS HANAK, | I | IN THE CIRCUIT COURT OF |
| Complainant, | I | BALDWIN COUNTY, ALABAMA. |
| VS. | I | IN EQUITY |
| ALBERT VITOUS, | I | CASE NO. 2690. |
| Respondent. | I | |

Comes now your Complainant in the above styled cause and amends her Complaint to read as follows:

1.

That your Complainant and Respondent are both bona fide residents of Baldwin County, Alabama, and over twenty-one years of age.

2.

That your Complainant and Respondent married in Summerdale, Alabama, on to-wit, June 19, 1935, and lived together as husband and wife until on, to-wit, February 2, 1949.

3.

That during the time your Complainant and Respondent were married, from their joint efforts, they accumulated and jointly owned property; both personal and real. That until May 16, 1949, they jointly owned the following described tract of land situated in Baldwin County, Alabama:

Southeast quarter of Southwest quarter; South Half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

That their personal property consisted of household goods and fixtures, farm machinery and money. The Complainant avers that she does not know the exact extent of this personal property.

4.

That on May 20, 1949, your Complainant obtained a divorce from the Respondent on the grounds of cruelty.

5.

That prior to this decree, on or about May 16, 1949, the Complainant executed a warranty deed to the Respondent to the above tract of land. "A copy of this deed is attached hereto and marked exhibit "A" for the Complainant, and made a part of this amended bill of complaint in the same manner as if it were here fully set out."

C.

Your Complainant further prays, that if the deed herein referred to be declared null and void; that Your Honor will partition the property of the Complainant and Respondent in kind. Your Complainant prays in the alternative that if the said property cannot be equitably partitioned in kind that Your Honor will cause the same to be sold for partition and division of the proceeds therefrom.

D.

Your Complainant further prays for such other, further, different and general relief as in the premises she may be entitled to receive.

Robert M Brantley
Solicitor for Complainant

STATE OF ALABAMA I

BALDWIN COUNTY I

KNOW ALL MEN BY THESE PRESENTS, That I, Evelyn VITOUS, wife of ALBERT VITOUS, Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to me in hand paid by ALBERT CITOUS, Grantee, the receipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the Grantee, all the following described real property situated in Baldwin County, Alabama, to-wit:

Southeast quarter of Southwest quarter; South half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

And for the same consideration the Grantor does hereby Grant, Bargain, Sell and convey to the Grantee al her right, title and interest in and to any and all other real property owned by the Grantee, and all personal property and equipment of every kind, nature and description owned by the Grantee.

TO HAVE AND TO HOLD with the appurtenances thereunto belonging unto the Grantee, his heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal on this the 16th day of May, 1949.

S/ Mrs. Evelyn Vitous _____ (SEAL)

STATE OF ALABAMA I
BALDWIN COUNTY I

I, H. M. Hall, a Notary Public, in and for said County, in said State, hereby certify that Evelyn Vitous, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 19th day of May, 1949.

S/ H. M. Hall

Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons Albert Vitous 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, Evelyn Vitous Hanak as Complainant and against Albert Vitous, as Respondent.

WITNESS my hand this the 30th day of July, 1951.

Richard J. Masheurn
Register.

Evelyn Vitous Hanak
COMPLAINANT

VS

Albert Vitous
Respondent

In the Circuit Court of
Baldwin County, Alabama.
In Equity.

TO HONORABLE TELRAIR J. MASHEURN JR., JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA:

Your Complainant, Evelyn Vitous Hanak respectfully represents unto your Honor and this Honorable Court as follows:

1.

That your Complainant and Respondent are both bona fide residents of Baldwin County Alabama and over twenty one years of age.

2.

That your Complainant and Respondent married in Summerdale, Alabama on to-wit June 19, 1935, and lived together as husband and wife until on, to-wit, February 2, 1949.

3.

That on, to-wit February 2, 1949 and on various occasions prior thereto, the respondent threatened and abused the Complainant and often threatened to do violence to her person which would necessarily endanger her life and health. The conduct of the Respondent was such as to give the Complainant every reasonable apprehension to believe and she does actually believe and did believe at that time that if she continued to live with the Respondent he would carry out his threats and do actual violence to her person, which would necessarily endanger her life and health, on one occasion his having presented a weapon commonly known as a gun before her and threatened her therewith and

beaten her on other occasions.

BOOK 018 PAGE 332

4.

That on the 20th day of May, 1949 your Complainant obtained a divorce from the Respondent on the ground of Cruelty, in the Circuit Court of Baldwin County, Alabama, Case No. 2291, because she was afraid and apprehensive of her life and health if she continued to live with him and as she was in a severe physical, mental and nervous condition because of the threats, and abuse of Complainant, on to-wit, May 16, 1949. Your Complainant signed a release of all her claims against said Respondent, giving him all the property the two had accumulated over the several years of their married life, which release completely exonerated said Respondent from even supporting and providing for their two infant daughters, fruits of this marriage, if said release is upheld.

5.

Your Complainant avers that at the time of her signing this release, that she was so nervous, apprehensive, afraid and in such a severe mental strain that she did not know what she was signing or realize what she was doing; that she was not examined separate and apart from her husband concerning this conveyance as required by law and that there was absolutely no consideration for her promise to release said Respondent from his legal duty and parental obligation to support and provide for their children, or to convey her share of their accumulated property to said Respondent,

6.

Wherefore, the Premises considered your Complainant prays that your Honour will by proper process make the said Albert Vitous, Party Respondent to this bill of complaint, requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honourable Court.

7.

Your Complainant further prays that your Honor will require the Respondent to give an accounting to your Honor of all property owned by Complainant and Respondent, both Real and Personal, on May 20, 1949, as well as all moneys in the bank, or any other place jointly owned by them on that date and that one half of any and all such property ~~be conveyed and or delivered to~~ your Complainant by the Respondent. Your Complainant alleges that she worked to help accumulate said property and that any and all such property was accumulated jointly, during

the course of their married life.

8.

BOOK 018 PAGE 333

Your Complainant further prays that upon a final hearing hereof Your Honor will grant her such other, further, different or general relief as she may in Equity and good conscience be entitled to receive.

FILED

July 30, 1951

ALICE L. BROWN, Complainant

Ruben F. McFarley
Solicitor for Complainant

8-1-51
Received in Sheriff's Office
this 30 day of July, 1951
TAYLOR WILKINS, Sheriff

702690

RECORDED

Executed ~~July~~ Aug. 1, 1951

By Serving Copies on

Albert Vitous

EVELYN VITOUS HANAK

COMPLAINANT

VS

ALBERT VITOUS

RESPONDENT

Sheriff

Taylor Wilkins

By

Edleigh Steatham

SUBPOENS AND COMPLAINANT

FILED

JUL 30 1951

ALICE J. DUCK, Register

Evelyn Vitous Hanak

COMPLAINANT

VS

Albert Vitous

RESPONDENT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Comes the respondent in the above styled cause and moves to strike the amended bill of complaint as a whole and paragraphs 3, 4, and 5 separately and severally, and as grounds therefor says:

1. The allegations therein made are irrelevant and immaterial.

2. The allegations therein made do not set up facts entitling complainant to the relief prayed for.

3. Because no facts are alleged therein to apprise this defendant of what he is called upon to defend.

And he specifically moves to strike that part of paragraph 7, reading as follows: Your Complainant alleges that she worked to help accumulate said property and that any and all such property was accumulated jointly, during the course of their married life.

1. Because the same is an allegation of fact and is not a proper part of the prayer.

And now without waiving his motion to strip, but insisting upon the same, the respondent demurs to the bill of complaint and to paragraphs 3, 4, and 5, and as grounds of demurrer says:

1. There is no equity in the bill of complaint.

2. The bill of complaint seeks an accounting between the complainant and the defendant but alleges no facts entitling complainant to such accounting.

3. The bill of complaint does not allege what property,

real or personal, if any, was owned by complainant or what property complainant and defendant owned jointly, if any.

4. Complainant seeks an accounting for personal property but alleges that she conveyed no personal property to the respondent.

5. Complainant does not allege that she owned or ~~had any interest in the lands conveyed by the instrument~~ attached to the bill of complaint as Exhibit "A".

6. Complainant does not allege any facts of fraud, duress, intimidation, or coercion by the respondent on the complainant.

7. The complaint shows on its face that the matters complained of have been adjudicated by this court.

8. Complaint alleges no facts entitling complainant to the relief prayed for.

9. The complaint shows on its face that complainant is divorced from respondent and has no rights under the laws of ~~Alabama to any property owned by the respondent now or at the~~ time of the divorce.

10. The complaint does not show that the conveyance was executed as a result of any fraud, duress, intimidation or coercion practiced or exercised by the respondent on the complainant.

11. Because the decree of divorced alleged in said complaint bars complainant from any and all rights in, claim or demand to the properties of the respondent.

12. The complaint shows on its face that the complainant is guilty of laches.

13. The complaint shows on its face that this action is not timely brought.

14. The complaint shows on its face that this action is barred by laches.

15. The complaint shows on its face that the complainant has ratified and confirmed her act of conveyance.

16. Complaint shows on its face that the complainant has ratified and confirmed her action in the execution and delivery of her conveyance.

And specifically demurring to paragraph 3 of the bill of complaint, respondent says:

1. The complainant does not allege any facts showing fraud, duress, intimidation or coercion exercised or practiced upon her by the respondent:

2. The complainant does not show that the conveyance alleged to have been made by her was the result of fraud, duress, intimidation or coercion.

And specifically demurring to paragraph 4 of the bill of complaint, defendant says:

That the allegation that the conveyance is null and void is the conclusion of the pleader.

Specifically demurring to paragraph 5 of the bill of complaint, respondent says:

1. Complainant does not allege any facts showing fraud, duress, intimidation and coercion practiced by defendant upon the complainant.

2. Complainant does not show that the alleged fraud, duress, intimidation and coercion induced or caused complainant to execute the alleged conveyance.

FILED

July 26 1953

JOHN A. WOOD, Register

Respectfully submitted

W. C. Beebe
W. C. Beebe
Solicitor for respondent

EVELYN VITOUS HANAK

COMPLAINANT

VS

ALBERT VITOUS

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. _____

Now comes the Respondent and demurs to the Complainant's complaint, and to each count thereof separately and severally and for grounds of said demurrers says:

1.

That the said bill is without equity.

2.

That the Complainant has a full, complete and adequate remedy at law.

3.

That the said bill is too vague and indefinite.

4.

That the said bill is so vague and indefinite that it does not apprise the Respondent of the relief prayed for.

5.

That the said bill shows on its face that the matters set out have already been adjudicated by a court of competent jurisdiction.

6.

That the bill shows on its face that the matters therein alleged are res judicata.

And the Respondent demurring to count three of the original bill of complaint says:

7.

The bill affirmatively shows that the allegations containing in this paragraph of the bill were prior to the date finally determined by a court of competent jurisdiction.

8.

That said count shows that the alleged facts happened, if at all, prior to the decree of divorce granted by a court of competent jurisdiction and are therefore res judicata.

And demurring to count four of the complaint says:

9.

That the alleged acts happened, if at all, prior to the final decree of divorce between the parties hereto, granted by a court of competent jurisdiction.

10.

That for ought appearing there was a valuable consideration passing from the Respondent to the Complainant for the alleged release.

11.

That the Complainant alleges no fraud in the procurement of said release.

12.

That for ought appearing there was an agreement between the Complainant and the Respondent as to the support and maintenance of the two infant daughters of the parties.

13.

That for ought appearing the Respondent is at present maintaining and supporting the two infant daughters.

14.

That the said count does not allege that the Respondent has failed or refused to support the two infant daughters.

15.

That for ought appearing the Respondent made ample provision for the support and maintenance of the two infant daughters.

And demurring to count five of the complaint says:

16.

That said count alleges no fraud practiced by the Respondent.

17.

That said count alleges no fraud exercised by the Respondent and against the Respondent.

18.

That said count alleges only the conclusion of the pleader.

19.

That said count shows no facts requiring the examination of the Complainant separate and apart from her husband.

20.

That the said count alleges no facts showing that there was not a

separate and apart examination of the Complainant apart from the Respondent.

21.

That said count does not set out the terms and conditions of the alleged release.

22.

That said count does not allege that the Respondent is not maintaining and supporting the children.

23.

For ought appearing in said count the respondent is amply providing for the maintenance and support of the children.

24.

That said count does not set out what property the Complainant conveyed to the Respondent.

25.

That said count does not set out the alleged release from the Complainant to the Respondent.

And demurring to the count seven of the bill of complaint the Respondent says:

26.

That the said count alleges no claim of the respondent as to property owned by Respondent on May 20, 1949.

27.

That for ought appearing the Complainant for a valuable consideration conveyed any property that she might have had to the Respondent on May 20, 1949.

28.

That said count sets out no facts authorizing the relief prayed for.

29.

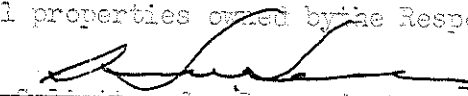
That said count alleges no fraud practiced by the Respondent upon the Complainant.

30.

That for ought appearing the Complainant voluntarily released her rights to any and all properties owned by the Respondent.

31.

That for ought appearing the Complainant for a valuable consideration released all of her rights to any and all properties owned by the Respondent.


Solicitor for Respondent

FILED
Aug 14, 1951
MILWAUKEE, WIS.

AMENDED COMPLAINT

BOOK 018 PAGE 348

EVELYN VITOUS HANAK,
Complainant,
VS.
ALBERT VITOUS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY
CASE NO. 2690.

TO THE HONORABLE JOHN CHASON, SPECIAL JUDGE:

Comes now your Complainant in the above styled cause and amends her Complaint as last amended to read as follows:

1.

That your Complainant and Respondent are both bona fide residents of Baldwin County, Alabama, and over twenty-one years of age.

2.

That your Complainant and Respondent were married in Summerdale, Alabama, on, to-wit, June 19, 1935, and lived together as husband and wife until on, to-wit, February 2, 1949.

3.

That during the time your Complainant and Respondent were married, from their joint efforts, they accumulated and jointly owned property; both personal and real. That until May 16, 1949, they jointly owned the following described tract of land situated in Baldwin County, Alabama:

Southeast quarter of Southwest quarter; South Half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

4.

That on May 20, 1949, your Complainant obtained a divorce from the Respondent on the grounds of cruelty.

5.

That prior to this decree, on or about May 16, 1949, the Complainant executed a warranty deed to the Respondent to the above tract of land. "A copy of this deed is attached hereto and marked Exhibit "A" for the Complainant, and made a part of this amended bill of complaint in the same manner as if it were here fully set out."

There was included in this deed, a conveyance; from your Complainant to the Respondent, of all her interest in the personal property they jointly owned.

6.

The deed recited a consideration of TEN (\$10.00) DOLLARS and other good and valuable consideration. Your Complainant avers that she has received no consideration for this conveyance.

7.

Your Complainant further avers that at the time this instrument was executed and for a long time prior thereto she suffered from a physical ailment that caused her to be frustrated and nervous and which caused her much physical pain.

8.

T That during their married live the Respondent on various occasions committed physical violence on her; that he abused her, dominated her actions and that she was afraid of him. That this continued up to a time just prior to this divorce.

9.

Your Complainant avers that she did not convey the property described herein voluntarily, but says that she signed the instrument of conveyance as a result of the duress, coercion and intimidation of the Respondent.

10.

Your Complainant avers that the Respondent to this cause has been in possession of and had the use of the above described property since the time of their divorce.

Complainant offers to do equity.

PRAYER FOR RELIEF

A.

The Premises considered your Complainant prays that Your Honor will declare, the conveyance herein referred to, null and void.

B.

The Complainant further prays that Your Honor will require Respondent to give an accounting of all the property jointly owned by the Complainant and Respondent, just prior to the conveyance herein referred to. Your Complainant

further prays that Your Honor will require Respondent to give an accounting for the use and profits of the above described real estate for the period of time for which he has had possession.

C.

Your Complainant further prays, that if the deed herein referred to be declared null and void; that Your Honor will partition the property of the Complainant and Respondent in kind. Your Complainant prays in the alternative that if the said property cannot be equitably partitioned in kind that Your Honor will cause the same to be sold for partition and division of the proceeds therefrom.

D.

Your Complainant further prays for such other, further, different and general relief as in the premises she may be entitled to receive.

John M. Brantley
Solicitor for Complainant

EXHIBIT "A" FOR COMPLAINANT

STATE OF ALABAMA)
BALDWIN COUNTY)

BOOK 018 PAGE 351

KNOW ALL MEN BY THESE PRESENTS, That I, Evelyn Vitous, wife of ALBERT VITOUS, Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to me in hand paid by ALBERT VITOUS, Grantee, the receipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the Grantee, all the following described real property situated in Baldwin County, Alabama, to-wit:

Southeast quarter of Southwest quarter; South half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, township 6 South, Range 3 East, containing 70 acres, more or less.

And for the same consideration the Grantor does hereby Grant, Bargain, Sell and convey to the Grantee all her right, title and interest in and to any and all other real property owned by the Grantee, and all personal property and equipment of every kind, nature and description owned by the Grantee.

TO HAVE AND TO HOLD with the appurtenances thereunto belonging unto the Grantee, his heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal on this the 16th day of May, 1949.

S/ Mrs. Evelyn Vitous (SEAL)

STATE OF ALABAMA)
BALDWIN COUNTY)

I, H. M. Hall, a Notary Public, in and for said County, in said State, hereby certify that Evelyn Vitous, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 19th day of May, 1949.

S/ H. M. Hall
Notary Public, Baldwin County, Alabama.

AMENDED COMPLAINT

| | | |
|----------------------|---|--------------------------|
| EVELYN VITOUS HANAK, | ¶ | |
| Complainant, | ¶ | IN THE CIRCUIT COURT OF |
| VS. | ¶ | BALDWIN COUNTY, ALABAMA. |
| ALBERT VITOUS, | ¶ | IN EQUITY |
| Respondent. | ¶ | CASE NO. 2690. |

TO THE HONORABLE JOHN CHASON, SPECIAL JUDGE:

Comes now your Complainant in the above styled cause and amends her Complaint as last amended to read as follows:

1.

That your Complainant and Respondent are both bona fide residents of Baldwin County, Alabama, and over twenty-one years of age.

2.

That your Complainant and Respondent were married in Summerdale, Alabama, on, to-wit, June 19, 1935, and lived together as husband and wife until on, to-wit, February 2, 1949.

3.

That during the time your Complainant and Respondent were married, from their joint efforts, they accumulated and jointly owned property; both personal and real. That until May 16, 1949, they jointly owned the following described tract of land situated in Baldwin County, Alabama:

Southeast quarter of Southwest quarter; South Half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

4.

That on May 20, 1949, your Complainant obtained a divorce from the Respondent on the grounds of cruelty.

5.

That prior to this decree, on or about May 16, 1949, the Complainant executed a Warranty Deed to the Respondent to the above tract of land. "A copy of this deed is attached hereto and marked Exhibit "A" for the Complainant, and made a part of this amended Bill of Complaint in the same manner as if it were here fully set out."

- 2 -

6.

Your Complainant avers that she executed the aforesaid deed as a result of the undue influence, duress, coercion and intimidation of the Respondent; that the deed was not voluntarily made by her. That your Complainant was suffering from a physical ailment at the time this deed was executed and had so suffered for a long time prior thereto. That this ailment or illness caused her to be mentally upset, nervous and fusterated; that this condition existed at the time she signed the aforesaid deed and had existed for a long time prior thereto. The Complainant avers that the Respondent was aware of this ailment or illness at the time the Complainant executed the aforesaid deed and had been aware of the Complainant's ailment or illness for a long time prior to the time she signed the said deed.

Your Complainant further avers that during the last few years she lived with the Respondent, the Respondent on numerous occasions committed actual physical violence on her; that he abused her and dominated her actions and that she was afraid of him. That this continued up to the time just prior to their divorce. Your Complainant avers that just prior to the time she conveyed the aforesaid land to the Respondent he threatened to commit further physical violence upon her unless she gave him the aforesaid property, she verily believed that he would carry out his threats unless she did give or convey this land to him. That because of this she conveyed the aforesaid land to the Respondent and that her act was not a free and voluntary one. That this land together with the house thereon is worth, in the opinion of your Complainant, TWENTY THOUSAND (\$20,000.00) DOLLARS, that she received little or no consideration from the Respondent or anyone else when she conveyed this land to the Respondent.

7.

Your Complainant avers that the Respondent to this cause has been in possession of and had the use of the above described property since the time of their divorce and has received the rents and profits from said land since that time.

Complainant offers to do equity.

PRAYER FOR RELIEF

A.

The Premises considered your Complainant prays that Your Honor will declare, the conveyance herein referred to, null and void.

B.

Your Complainant further prays that Your Honor will require the Respondent to give an accounting for the use and profits of the above described real estate for the period of time for which he has had possession.

C.

Your Complainant further prays, that if the deed herein referred to be declared null and void; that Your Honor will partition the property of the Complainant and Respondent in kind. Your Complainant prays in the alternative; that if Your Honor finds it impossible to divide said property in kind, that Your Honor will make and enter an appropriate decree directing the Register of this Court to proceed to sell the aforesaid land for partition and division of the proceeds thereof among your Complainant and Respondent as joint owners thereof as their interest shall appear and that due notice be given of the time and place of such sale as provided by the laws of the State of Alabama and the rules of this Honorable Court.

D.

Your Complainant further prays for such other, further, different and general relief as in the premises she may be entitled to receive.

WILTERS & BRANTLEY

By:



Solicitors for Complainant

EXHIBIT "A" FOR COMPLAINANT

STATE OF ALABAMA §

BALDWIN COUNTY §

KNOW ALL MEN BY THESE PRESENTS, That I, Evelyn Vitous, wife of ALBERT VITOUS, Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to me in hand paid by ALBERT CITOUS, Grantee, the receipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL AND CONVEYED unto the Grantee, all the following described real property situated in Baldwin County, Alabama, to-wit:

Southeast quarter of Southwest quarter; South half of Northeast quarter of Southwest quarter; Northeast quarter of Northeast quarter of Southwest quarter of Section 10, Township 6 South, Range 3 East, containing 70 acres, more or less.

And for the same consideration the Grantor does hereby Grant, Bargain, Sell and convey to the Grantee all her right, title and interest in and to any and all other real property owned by the Grantee, and all personal property and equipment of every kind, nature and description owned by the Grantee.

TO HAVE AND TO HOLD with the appurtenances thereunto belonging unto the Grantee, his heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal on this the 16th day of May, 1949.

S/ Mrs. Evelyn Vitous (SEAL)

STATE OF ALABAMA §
BALDWIN COUNTY §

I, H. M. Hall, a Notary Public, in and for said County, in said State, hereby certify that Evelyn Vitous, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 19th day of May, 1949.

S/ H. M. Hall
Notary Public, Baldwin County, Alabama.

RECORDED
AMENDED COMPLAINT

EVELYN VITOUS HANAK,

Complainant,

VS.

ALBERT VITOUS,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY.

CASE NO. 2690.

FILED

4-24-53

ALICE J. DUCK, Register

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons Albert Vitous 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, Evelyn Vitous Hanak as Complainant and against Albert Vitous, as Respondent.

WITNESS my hand this the _____ day of _____, 1952.

Register.

*
Evelyn Vitous Hanak *
*
COMPLAINANT *
*
VS *
*
Albert Vitous *
*
RESPONDENT *
*

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

TO HONORABLE TELFAIR J. MASHBURN JR., JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

Your Complainant, Evelyn Vitous Hanak respectfully represents unto your Honor and this Honorable Court as follows:

1.

That your Complainant and Respondent are both bona fide residents of Baldwin County, Alabama and over twenty one years of age.

2.

That your Complainant and Respondent married in Summerdale, Alabama on to-wit, June 19, 1935, and lived together as husband and wife until on, to-wit, February 2, 1949.

3.

That on to-wit, the 20th day of May, 1949, your Complainant obtained a divorce from the Respondent on the ground of Cruelty, in the Circuit Court of Baldwin County, Alabama, Equity, Case No. 2291, because she was afraid and apprehensive of her life and health if she continued to live with him and as she was in a severe physical, mental and nervous condition because of threats, and abuse of Complainant, on to-wit, May 16, 1949, because of fraud, duress, intimidation, and coercion, Your Complainant signed a conveyance allegedly to the Respondent of all her claims to any and all real and personal property jointly owned by them on that date, which said fraud was practiced upon her by the Respondent, as well as her being the victim of duress, intimidation, and coercion the Respondent exercised upon her. This conveyance allegedly gave the Respondent all the property the two had accumulated jointly over the several years of their married life.

4.

Your Complainant alleges that this conveyance is to Albert Citous instead of Albert Vitous and there being no person known to the Complainant as Albert Citous, the alleged conveyance is therefore null and void as a conveyance to the Respondent and prays that this Honorable Court will declare it completely null and void. A certified copy of said conveyance is attached hereto and is hereby made a part and parcel hereof. Your Complainant alleges that this conveyance does not convey any personal property owned jointly by Complainant and Respondent, but only quit-claims to the grantee, any personal property owned by him.

5.

Your Complainant avers that at the time of her signing this conveyance, that she was so nervous, apprehensive, afraid, and in such a severe mental strain that she did not know what she was signing or realize what she was doing; that such fraud, duress, intimidation, and coercion had been practiced upon her by the Respondent, that she was in fear of even her life and that there was absolutely no consideration given her, for the conveyance or for her signature thereon.

6.

Wherefore, the Premises considered your Complainant prays that your Honor will by proper process make the said Albert Vitous, Party Respondent to this bill of complaint, requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court, and that this Honorable Court will review this matter and grant the Complainant such relief as in the premises may be just, equitable, and right.

7.

Your Complainant further prays that your Honor will require the Respondent to give an accounting to your Honor of all property jointly owned by Complainant and Respondent, both Real and Personal, on May 20, 1949, as well as all money in the bank or any other place jointly owned by them on that date, as your Complainant does not know exactly of what said property consisted or the extent thereof, and that one half of any and all such property jointly owned by them, be conveyed and/or delivered to your Complainant by the Respondent. Your Complainant alleges that she worked to help accumulate said property and that any and all such property was accumulated jointly, during the course of their married life.

8.

Your Complainant further prays that upon a final hearing hereof, Your Honor will grant her such other, further, different or general relief as she may in Equity and good conscience be entitled to receive and your Complainant offers to do such Equity in the Premises as this Honorable Court may see fit to require.

FILED

Jan 25 1952

ALICE J. DICK, Register



SOLICITOR FOR COMPLAINANT.

| | | |
|---------------------|--|--------------------------|
| EVELYN VITOUS HANAK | | IN THE CIRCUIT COURT OF |
| COMPLAINANT | | |
| VS | | BALDWIN COUNTY, ALABAMA, |
| ALBERT VITOUS | | |
| RESPONDENT | | IN EQUITY |

Comes the respondent in the above styled cause and demurs to the complainant's bill of complaint as amended April 24, 1953, and to each paragraph thereof separately and severally and as grounds for demurrer says:

1. That the said bill is without equity.
- ✓ 2. That the complainant has a full, complete and adequate remedy at law.
- ✓ 3. That the said bill is too vague and indefinite.
4. That the said bill shows on its face that the matters set out have already been adjudicated by a court of competent jurisdiction.
5. That the bill shows on its face that the matters therein alleged are res adjudicata.
6. That the complainant alleges no acts of fraud, duress or coercion by this defendant or by any person acting for him in the procurement of said conveyance and release.
- ✓ 7. Said bill of complaint alleges no facts upon which this court can order and hold an accounting as between the complainant and respondent.
8. Said complaint does not allege what properties complainant seeks to have this court compel the respondent to account for.
9. Said bill of complaint does not allege any fraud by the respondent, or any undue influence or coercion exercised by the respondent over the complainant to induce her to execute a release.
- ✓ 10. Said complaint does not allege any facts authorizing the complainant to the relief prayed for.
- ✓ 11. Said complaint shows on its face that this action is barred by the statute of limitations.
- ✓ 12. Said complaint shows on its face that the complainant is guilty of laches.

13. It does not appear from said complaint that the conveyance shown as exhibit A was without consideration.

14. For ought that appears from said bill of complaint there was a substantial consideration for the deed sought to be set aside.

15. For ought that appears from said bill of complaint the complainant had not contributed any money or thing of value to the acquisition of the property conveyed by the deed sought to be set aside.

16. For ought that appears in the bill of complaint the conveyance sought to be set aside was voluntarily made.

17. For ought that appears from the said bill of complaint the conveyance sought to be set aside was not executed as a result of any undue influence, coercion or duress.

FILED

NOV. 20, 1955

ALICE J. DUCK, Register

W. C. Bebe
Solicitor for respondent

2690

RECORDED

Guilys Vitous Hawk
Complainant

VS.

Albert Vitous
Respondent

Denumer

FILED

NOV 20 1953

ALICE J. DICK, Register

2690