

2712

REBECCA ANN GRAGG POPWELL,	*	IN THE CIRCUIT COURT OF
A MINOR OVER THE AGE OF	*	
FOURTEEN YEARS, BY HER	*	BALDWIN COUNTY, ALABAMA,
GUARDIAN, EULA F. GRAGG,	*	
AND EULA F. GRAGG, GUARDIAN	*	IN EQUITY.
OF REBECCA ANN GRAGG POPWELL,	*	
A MINOR OVER THE AGE OF	*	NO. _____.
FOURTEEN YEARS,	*	
	*	
Complainants.	*	
	*	
vs.	*	
	*	
L. C. MERRELL AND MARY E.	*	
MERRELL,	*	
	*	
Respondents.	*	

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

Your complainants, humbly complaining, would respectfully represent and sheweth unto Your Honor as follows:

1. That the complainant, Rebecca Ann Gragg Popwell, is a minor over the age of 14 years and is a resident citizen of Clanton, Chilton County, Alabama; that Eula F. Gragg is over the age of 21 years and is a resident citizen of Clanton, Chilton County, Alabama; that L. C. Merrell and Mary E. Merrell are bona fide resident citizens of Magnolia Springs, Baldwin County, Alabama, and each is over the age of 21 years.

2. Your complainants further aver that the said Eula F. Gragg is the grandmother of Rebecca Ann Gragg Popwell and was duly and legally appointed guardian of said minor on the 28th day of November, 1947, by the Probate Court of Chilton County, Alabama, and she has since been acting and serving as said guardian, and said guardianship proceedings are now pending in said Probate Court of Chilton County, Alabama.

3. The complainants further aver that Dr. V. J. Gragg owned in his lifetime the hereinafter described property located in the County of Baldwin and State of Alabama, to-wit:

The following described property located in Section 33, Township 7S, Range 3E in Baldwin County, Alabama, and being the Northwest corner of that certain plat or survey made by Claude W. Arnold, Land Surveyor, on July 23rd, 1951, and being that portion of said survey marked A and being more specifically described as follows:

From the Southwest corner of the Joseph Collins Grant, Section 38, T. 7S, R. 3E., run West 623 feet along the North side of a road; thence run South 67° W along the North side of said road 423 feet to a point, thence run North 13° 40' W 169 feet, thence run South 73° 10' W 229 feet, thence run North 13° 10' W 10 feet to the point of beginning; thence continue North 13° 10' W 195 feet to a fence corner post on the South margin of Magnolia River, thence run Southwestwardly and following the meanderings of Magnolia River to a point located S 67° W 334 feet from the last corner specified; thence running Southerly along the East or South margin of Magnolia River to a point that is located South 30° 40' E 194.4 feet from the point last specified, thence running North 67° 50' E 276.2 feet to the point of beginning. The above described lot contains 1.4 acres, more or less, lies in Section 33, T. 7S, R. 3E, and is a portion of that certain property heretofore conveyed by Edna E. Dowty to J. T. Pullen.

Also including rights of ingress and egress over the following described roads; from the Southwest corner of the Joseph Collins Grant, Section 38, T. 7S, R. 3E, run West 623 feet South 67° W 408 feet, North 13° 40' W 179 feet, South 73° 10' W 243.5 feet, South 67° 50' W 20 feet South 28° E 18 feet North 73° 10' E 232 feet, South 13° 40' E., 173.5 feet South 82° E 31 feet, North 67° E. 408 feet E 623 feet N 30 feet to point of beginning.

and the said V. J. Gragg died testate a resident citizen of Chilton County, Alabama, on February 17th, 1947, whose last will and testament has been duly admitted to probate and record in the Office of the Judge of Probate of Chilton County, Alabama, a copy of said will being hereto attached to this bill and made a part of the same and marked Exhibit A.

Your complainants further aver that said testator left surviving as his devisees and heirs the following: your complainant, Eula F. Gragg, the widow of Dr. V. J. Gragg; Annie Gragg Mullins, a daughter, Vincent Gragg, Jr., a son; Thomas Albert Gragg, a son, and Elizabeth Grotheer, a daughter, and under the terms of said will, the said widow, Eula F. Gragg, Annie Gragg Mullins, Vincent Gragg, Jr., Thomas Albert Gragg and Elizabeth Grotheer, children of said decedent, and Rebecca Ann Gragg Popwell, a granddaughter of said testator, are the sole owners of the hereinabove described real estate, each owning a one-sixth undivided interest in and to the same.

4. Your complainants further aver that said property did not constitute the homestead of said testator, and all of the adult

joint owners as hereinabove named, along with their respective spouse, have entered into an agreement with the respondents in this cause to sell for cash the above described property to the respondents for the consideration of Six thousand and no/100 (\$6000.00) Dollars, and in pursuance of said agreement, all of the adult joint owners as hereinabove named have executed a warranty deed to said L. C. Merrell and Mary E. Merrell, which deed is now held in the possession of the solicitors of the complainants and ready to be delivered to the respondents when said sale is consummated by permission of this Honorable Court.

Complainants aver that the price agreed upon is fair and reasonable for said property and probably is the highest price now obtainable for said property, and that said property has no improvements located thereon and contains about 1.4 acres, more or less, and that it will be to the best interest of said minor for said property to be sold at the price and upon the terms agreed upon, and complainants aver that the respondents are ready, able and willing to pay to said guardian the amount due to said minor for the purchase price of said property, and being One thousand and no/100 (\$100000) Dollars, and are ready, able and willing to pay the balance of the purchase price of said property to said adult joint heirs.

Complainants further aver that said minor is now fifteen years of age and is in need of said money for her support, maintenance and education, and that it will be advantageous and to the best interest of said minor for said property to be sold, which now brings no revenue to said minor or the adult joint owners.

THE PREMISES CONSIDERED, your complainants pray that this Honorable Court will take jurisdiction of this bill of complaint, and that L. C. Merrell and Mary E. Merrell be made parties respondent to this bill of complaint, and that summons be issued to them, accompanied with a copy of this bill, requiring them to plead, answer or demur to the same within the time fixed by law and the rules of this Honorable Court, or that they be made parties respondent to this bill of complaint

by their own voluntary appearance and pleading.

Complainants further pray that upon a final hearing of this cause, that a decree will be made and entered, directing, authorizing and empowering Eula F. Gragg, guardian of Rebecca Ann Gragg Popwell, said minor, to convey all the right, title and interest of the said Rebecca Ann Gragg Popwell in and to the above described real estate at and for the consideration herein set forth and averred in this bill of complaint to said respondents, L. C. Merrell and Mary E. Merrell, and that this Honorable Court will authorize and empower the said Rebecca Ann Gragg Popwell by and through her guardian, to execute and deliver a proper deed conveying all the right, title and interest of said minor in and to the property herein set forth, for the consideration of One thousand and no/100 (\$1000.00) Dollars, as herein averred, and that said guardian will be empowered and authorized by this Honorable Court to execute all papers and deeds necessary to convey full and complete title to said respondents, and that this court will direct the time and manner for said respondents to pay to said guardian the consideration for the purchase of said minor's interest as averred in this bill.

Complainants further pray that upon the execution of said deed by said guardian, that the same be delivered to the Register of this court for delivery to the respondents, said purchasers, upon the payment of the sum of One thousand and no/100 (\$1000.00) Dollars, to said guardian or to the Register of this court, for the use of said guardian, and upon the delivery of said deed and money as herein provided, that the Register of this court will make a proper report to this court, and that upon consideration of the same, that this court will direct the manner and time of delivery of the deed and of the money, and will make all other decrees necessary to carry out and complete this sale.

If the complainants are mistaken in the relief prayed for herein, then they pray for such other, further, different and general relief that they may be entitled to in the premises and for which they

will ever pray, etc.

Wm. H. H. H. H.  
Wm. H. H. H. H.  
SOLICITORS FOR COMPLAINANTS.

Exhibit A.

STATE OF ALABAMA,  
CHILTON COUNTY.

I, Vincent J. Gragg, being of sound mind and disposing memory, do hereby make and publish this my last will and testament, hereby revoking any former wills made by me.

1. I hereby direct that all of my just debts be paid by my executor as soon after my death as practicable.

2. I will and bequeath unto my wife, Eula F. Gragg, and to my granddaughter, Rebecca Ann Gragg Popwell, a child's part in all my real and personal property which I may die seized and possessed, along with my other children.

3. I hereby appoint my wife, Eula F. Gragg, my executrix, and direct that she be not required to give bond.

V. J. Gragg.

We, the undersigned witnesses, hereby certify that Vincent J. Gragg signed the foregoing will in our presence and are in his presence on the date the same bears date.

Lawrence F. Gerald, Jr.

M. L. White

STATE OF ALABAMA,  
CHILTON COUNTY.

I, W. L. Parrish, Judge of the Court of Probate in and for said County and State, do hereby certify that the within instrument of writing has this day in said court, and before me as the Judge thereof, been duly proven by the proper testimony to be the genuine last will and testament of V. J. Gragg, deceased, and that the said Will, together with the proof thereof, has been recorded in my office in Book of Wills, Volume 4, Page 118.

In witness of all of which I have hereto set my hand and the seal of said court, this the 11th day of March, 1947.

W. L. Parrish  
Judge of Probate.

REBECCA ANN GRAGG POPWELL,  
A MINOR OVER THE AGE OF  
FOURTEEN YEARS, BY HER GUARDIAN  
EULA F. GRAGG, AND EULA F. GRAGG  
GUARDIAN OF REBECCA ANN GRAGG  
POPWELL, A MINOR OVER THE AGE OF  
FOURTEEN YEARS,

COMPLAINANTS,

VS.

L. C. MERRELL AND MARY E.  
MERRELL,

RESPONDENTS.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY.

No. \_\_\_\_\_

Now comes the respondents, L.C. Merrell and Mary E. Merrell, and for answer to the bill of complaint in this cause and each paragraph thereof, says:

1. That they and each of them admit the allegations contained in said bill of complaint to be true. They admit that they agreed to pay \$6000.00 for said property, that they have already paid \$300.00 of said purchase price as a binder, and that they are ready, able and willing to comply with the purchase of said property. Respondents further state that they and each of them waive notice of the time and place of taking testimony in support of the allegations of said bill and agree and consent that said cause be submitted to the Court at any time in the future for final decree, without further notice to the respondents.

Now having answered said bill fully, they pray to be discharged.

L. A. Sanders  
Solicitor for the Respondents.

GRADY REYNOLDS  
OMAR L. REYNOLDS  
MORGAN REYNOLDS  
GRADY REYNOLDS, JR., (1916-1943)

LAW OFFICES OF  
REYNOLDS & REYNOLDS  
ROCKETT BUILDING  
CLANTON, ALABAMA  
September 3, 1951

TELEPHONE 41

Alice J. Duck  
Register of  
Circuit Court in Equity  
Bay Minette, Alabama

Dear Madam:

I am herewith enclosing a Bill of Complaint of Rebecca Ann Gragg Popwell, et al vs. L. C. Merrell, et al to be filed in Equity Court. It is not necessary to issue process as Mr. Lew A. Sanderson, Attorney of Montgomery, Alabama, will file an appearance for the respondents. Mr. Sanderson will file his answer in the next day or two and there will also be filed an agreement for taking oral depositions of some witnesses in Chilton County. You might advise me the date that the answer and this agreement is filed and I will proceed to take the depositions here.

When the depositions are then filed with you, I will also mail to you a drafted decree as I assume that Judge Mashburn would want us to prepare it and there will also be filed a note of testimony signed by the attorneys in the cause.

There will be then presented to you a deed signed by the guardian for the minor and proof made to you that the sum of \$1000.00 has been paid to the guardian for the minor, and the next procedure will be for you to report to the court for a final decree.

When the cause is completed, if you will mail me the cost bill, we will mail your check.

I am,

Yours very truly,

*Omar L. Reynolds*  
Omar L. Reynolds

OLR/eaw  
Encl.



GRADY REYNOLDS  
OMAR L. REYNOLDS  
MORGAN REYNOLDS

GRADY REYNOLDS, JR., (1916-1943)

LAW OFFICES OF  
REYNOLDS & REYNOLDS  
ROCKETT BUILDING  
CLANTON, ALABAMA

August 27, 1952

TELEPHONE 41

Mrs. Alice J. Duck  
Register, Circuit Court In Equity  
Bay Minette, Alabama

2712

Dear Madam:

Rebecca Ann Gragg Popwell,  
Re: et al vs.  
L. C. Merrell, et al.

I wish you would please have the Court  
dismiss without prejudice the above styled suit.  
Also send me a statement of the Court cost accrued  
in this matter and you will be mailed a check.

Yours very truly,

*Omar L. Reynolds*  
B-  
Omar L. Reynolds

OLR/ddm

REBECCA ANN GRAGG POPWELL,	*	IN THE CIRCUIT COURT OF
A MINOR OVER THE AGE OF	*	BALDWIN COUNTY, ALABAMA,
FOURTEEN YEARS, BY HER	*	IN EQUITY.
GUARDIAN, EULA F. GRAGG,	*	
AND EULA F. GRAGG, GUARDIAN	*	NO. _____.
OF REBECCA ANN GRAGG POPWELL,	*	
A MINOR OVER THE AGE OF	*	
FOURTEEN YEARS,	*	
Complainants.	*	
vs.	*	
L. C. MERRELL AND MARY E.	*	
MERRELL,	*	
Respondents.	*	

Now come the complainants in the above styled cause by their solicitors of record, and also come the respondents in the above styled cause by their solicitors of record, and hereby agree and stipulate as follows:

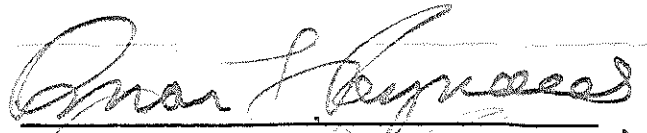
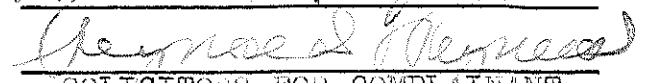
That it is hereby agreed that the testimony in this cause may be taken upon oral interrogatories propounded to any witnesses that either of said parties desire to introduce, or whose testimony is desired to be taken, and it is hereby agreed that C. Delle D. Cobb, Register of the Circuit Court of Chilton County, Alabama, in Equity, be and she is hereby designated as the commissioner to take the oral depositions of said witnesses, and that said testimony may be taken in the office of said Register at Clanton, Alabama, on any day to be designated by said commissioner, and it is hereby agreed that the commission to said commissioner is hereby waived by both the complainants and the respondents, and that said commissioner is hereby vested with all the powers of a commissioner to take such testimony, and said commissioner shall have all right and authority to swear the witnesses, receive said oral depositions and the answers of the witnesses thereto, and to certify to said testimony as provided by law.

The respondents to this agreement hereby waive further notice of the time and place of taking testimony, and it is further agreed that after said testimony is taken and certified to, as required by law, and filed in said court of Baldwin County, Alabama, in

equity, that a final decree shall be rendered upon said testimony, and that the cause may be submitted to the court for final decree at any time after said testimony is taken and filed in said court.

The complainants and respondents by this stipulation hereby waive all other notices and commissions and hereby vest in the said C. Delle D. Cobb all the power and authority to take said testimony as provided by law, and hereby agree that the original of this agreement shall be filed in said court of Baldwin County, Alabama, in equity, and that an executed copy of this agreement shall be given to and filed with said C. Delle D. Cobb of Clanton, Alabama, and upon depositing the same with the said C. Delle D. Cobb, that she shall be vested with all authority to act as commissioner in the premises.

Executed, this the 3rd day of September, 1951.

  
  
SOLICITORS FOR COMPLAINANT.

  
SOLICITOR FOR RESPONDENT.