

MARIE LEWAK,)	
)	IN THE CIRCUIT COURT OF
Complainant,)	BALDWIN COUNTY, ALABAMA
-vs-)	IN EQUITY
FRANK LEWAK,)	
Respondent.)	

Comes the Respondent in the above styled cause and demurs to the Bill of Complaint filed therein and separately and severally to each count thereof and for grounds of demurrer assigns separately and severally the following:

1. Said Bill of Complaint states no cause of action.
2. That the conveyance referred to in Paragraph 3 of the Bill of Complaint is not made a part of the Bill.
3. That Exhibit "A" referred to in the Bill of Complaint as a deed is, in fact, a contract and agreement.
4. That the Bill of Complaint does not set out the interest claimed by the Complainant in said land.
5. That for ought that appears Complainant would not be entitled to possession even though the conveyance was set aside.
6. That insufficient facts are alleged to show authority of the Complainant to declare the conveyance void as done in Paragraph 6 of the Bill of Complaint.
7. That an agreement is referred to in the Bill of Complaint but is not set out therein, nor or any provisions thereof shown.
8. That there is no allegation in the Bill of Complaint as to whether an agreement referred to therein is written or verbal.
9. That the relief prayed for in the Bill of Complaint is improper.

Frank Lewak
Respondent

RECORDED 2868

DEMURRERS

MARIE LEWAK,
Complainant,
-VS-
FRANK LEWAK,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

FILED

SEP 10 1962

ALICE J. DUCK, Register

THE STATE OF ALABAMA, }
Baldwin County

No. 2868

Circuit Court, In Equity.

MARIE LEWAK

Complainant

Vs.

FRANK LEWAK

Defendant

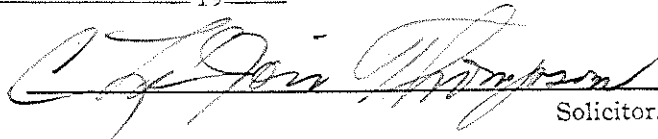
Motion is hereby made for a Decree Pro Confesso against

FRANK LEWAK

Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant; and that said summons was duly served according to law, and that said Defendant has failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This 19th day of August 19 53


Solicitor.

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, In Equity

Vs.

Motion for Decree Pro Confesso on
Personal Service

Filed _____ 19 _____

Register.

FILED

Recorded in AUG 19 1953 Record

Vol. _____ Page ALICE J. DUCK, Register

Register.

STATE OF ALABAMA)
BALDWIN COUNTY)

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Frank Lewak 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 Marie Lewak, as Complainant, and against Frank Lewak, as Respondent.

WITNESS MY HAND this the 13th day of August, 1952.

Desi J. Leve
Register

MARIE LEWAK,
COMPLAINANT,
VS
FRANK LEWAK,
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, IN EQUITY:

Your Complainant, Marie Lewak, humbly complaining against the Respondent Frank Lewak, respectfully represents unto Your Honor and this Honorable Court, as follows:

1.

That your Complainant is over twenty-one years of age and a bona fide resident of Baldwin County, Alabama.

2.

That the Respondent is over twenty-one years of age and a bona fide resident of Baldwin County, Alabama.

3.

That on to-wit, the 7th day of December, 1951, your Complainant executed and delivered to the Respondent a deed, conveying the following

described land in Baldwin County, Alabama, to-wit: the West half ($W\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$) of Section twenty-one (21), Township eight (8) South, Range four (4) East, and all of her interest in the estate of Frank Lewak, Sr., and;

That said deed is of record in the office of the Probate Judge of Baldwin County, Alabama in Deed Book 183 N. S. page 137; that a copy of said conveyance is hereto attached marked exhibit " A ", and asked to be taken as a part hereof, as though herein fully set out.

4.

That a material part of the consideration for the execution of the conveyance, herein set out was a promise on the part of the Respondent that he would support and care for your Complainant during her life time; that the Respondent has failed or refused to support the Complainant, in accordance with the said agreement.

5.

That your Complainant is physically unable to do her cooking, house-keeping and take care of herself.

6.

That the Complainant has elected to and does hereby declare the said conveyance void; and files this proceeding to have the same declared null and void.

7.

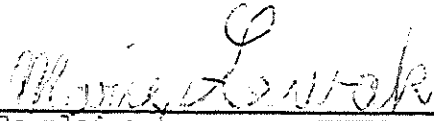
That the Respondent is living on and occupying the said property as a home.

8.

The Complainant submits herself to the jurisdiction of the Court and offers to do equity and abide by any decree of the Court.

WHEREFORE, the premises considered, Complaint prays that your Honor will, by proper process make the said Frank Lewak 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.

Complainant further Prays that upon a final hearing of this cause, Your Honor will make and enter an order and decree, declaring the said conveyance from the complainant to the Respondent null, and void and of no effect, and that a proper decree be made and entered expunging the same from the records, in the office of the Probate Judge of Baldwin County, Alabama. Complainant further Prays that Your Honor will issue a writ of possession directing the Sheriff of Baldwin County, Alabama, to remove the said Respondent, Frank Lewak, from the said property, and deliver the possession thereof over to the Complainant, Marie Lewak. Complainant prays for such other, further, different or General relief as she may be in equity and good conscience entitled to receive, and as in duty bound she will ever pray.


Complainant


Solicitor for Complainant

MARIE LEWAK

COMPLAINANT

VS

FRANK LEWAK

RESPONDENT

From the Law Offices of
C. LeNoir Thompson
Attorney At Law
Bay Minette, Alabama

"EXHIBIT A"

STATE OF ALABAMA

BALDWIN COUNTY

THIS CONTRACT AND AGREEMENT, made and entered into, in duplicate, on this the 7th day of December, 1951, by and between MARIE LEWAK, hereinafter referred to as party of the first part, and FRANK LEWAK, hereinafter referred to as party of the second part, being mother and son, WITNESSETH:-

That WHEREAS, on the date hereof the said party of the first part has conveyed to the party of the second part all her right, title and interest in that certain real estate in Baldwin County, Alabama, described as the West Half ($W\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of the Northeast Quarter ($NW\frac{1}{4}$) of Section twenty-one (21), Township eight (8) South, Range four(4) East, and all of her interest in the estate of Frank Lewak, Sr., and;

WHEREAS, it is agreed by and between the parties hereto that, as consideration, the said party of the second part shall repair and make tenantable the small house located on the property hereinabove described and shall move the furniture and personal effects of the party of the first part to the small house, and shall support and care for the party of the first part for her lifetime, including all medical expenses and medicines;

IT IS THEREFORE MUTUALLY AGREED between the parties hereto that failure on the part of the party of the second part to repair the house, support and care for the party of the first part as he has agreed to do shall be considered as a failure of consideration of the transfer and conveyance by the party of the first part to the party of the second part.

IT IS FURTHER AGREED that the party of the first part may occupy the small house for her lifetime and that the support and care will be furnished at this location, and that none of the property may be sold during her lifetime.

WITNESS THE hands and seals of the parties hereto on this the day and year first above written.

Marie Lewak (SEAL)

FRANK LEWAK (SEAL)

STATE OF ALABAMA

BALDWIN COUNTY

I, Cecil G. Chason, a Notary Public in and for said County in said State, hereby certify that Marie Lewak and Frank Lewak, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me 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 and Notarial Seal hereto affixed by me on this 7th day of December, 1951.

Cecil G. Chason
Notary Public, Baldwin County
State of Alabama

SEAL

RECORDED

Original filed 12/11/51

Frank Lewak

Marie Lewak

FILED

DEC 10 1951

NOTARY PUBLIC

Frank Lewak

#2868 RECORDED

Executed Aug. 15, 1952
By Serving Copy on

Frank Lewark

W

Sheriff
Taylor Wilkins
By
Edleigh Steadham

FILED

AUG 15 1952

ALICE J. DUCK, Register

Frank Lewark
Aug 15

SEAL

15th day of December, 1952.

Given under my hand and Notarial Seal hereto affixed ~~at~~ on this
the same and personally on the day the same bears date.

And that said being informed of the contents of the instrument, they executed
to the foregoing instrument, and who are known to me, acknowledged before me.

State, hereby certify that Marie Lewark and Frank Lewark, whose names are signed

I, Cecil G. Owsen, a Notary Public in and for said County in said

WILMINGTON COUNTY

STATE OF ALABAMA

State of Alabama
Notary Public, Wilmington County
Cecil G. Owsen

MARIE LEWAK
Complainant,
VS.
FRANK LEWAK
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.
IN EQUITY.
No. 2868

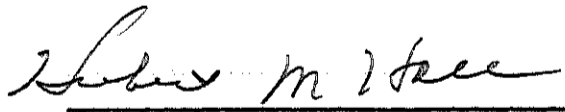
This cause coming on to be heard is submitted upon the demurrers of the Respondent to the Bill of Complaint on behalf of the Complainant.

The Court, after reading and considering the demurrers 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 bill of Complaint, be and the same are overruled.

It is further ORDERED that the respondent be, and he is hereby given, 20 days in which to file additional pleading.

This 16th day of June, 1953.


JUDGE