

2901

STATE OF ALABAMA )  
BALDWIN COUNTY )

BOOK 021 PAGE 099

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon A. J. SWIRN to appear within thirty days from the service of this writ in the Circuit Court to be held for said county, Equity Side, then and there to answer the complaint of JOSEPH D. MIDDLETON and HARWELL J. DOYLE, as Executor of the Last Will and Testament of P. JOSEPH DOYLE, Deceased.

WITNESS my hand this 29th day of September, 1952.

*W. J. Luck*  
Register.

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

Your Orators, Joseph D. Middleton and Harwell J. Doyle, as Executor of the Last Will and Testament of P. Joseph Doyle, present this Bill of Complaint against A. J. Swirn and, thereupon, complain and show unto the Court and your Honor as follows:

1. Joseph D. Middleton is over twenty-one years of age and a resident of Baldwin County, Alabama.

Harwell J. Doyle is over twenty-one years of age and a resident of Mobile County, Alabama, and has been appointed, qualified and is now acting as Executor of and under the Last Will and Testament of P. Joseph Doyle, Deceased, which has been admitted to probate and record in and by the Probate Court of Mobile County, Alabama.

2. The respondent, A. J. Swirn, is over twenty-one years of age and a resident of Baldwin County, Alabama.

3. The complainant, Joseph D. Middleton, and the respondent, A. J. Swirn, are joint owners or tenants in common of the following described real and personal property situated in Baldwin County, Alabama, to-wit:

Lots Numbered A, One (1), Two (2), Three (3), Four (4) and Five (5) in Block One (1) in the Gulf Bays Tract, according to the official map or plat of the said subdivision, which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

Buildings - Shop 20' x 55' frame, concrete floor  
 Ways, cradle, tracks, cables, blocks  
 Dock  
 Haul-out winch with Chevrolet motor  
 Battery and hydrometer  
 Drill press  
 Large planer, 8" x 30"  
 Table saw (small)  
 Band saw (small)  
 Band saw (large)  
 International motor for planer and shafting  
 Electric drill (large)  
 Electric drill (small)  
 Electric sander  
 Fluorescent lights  
 Battery charger (Allen)  
 "C" clamps  
 Cable and rope  
 Sledge hammer  
 Large wheelbarrow  
 Briggs & Stratton Motor  
 3 large band saw blades  
 Nails, bolts, keystick, and misc.  
 1 Grapnell  
 Band saw blades  
 Table saw blades

Rigging clamp vise  
 25 lb. Red lead  
 Tap and Die set  
 Large hydraulic jack  
 Gear pumps (bronze)  
 Kermath motor (to be rebuilt)  
 Table saw (large)  
 Pipe vise  
 Yard timbers  
 2 plug cutters  
 Hack saw blades  
 2 lb. hammer  
 Bottom brushes and hose for dock and ways  
 Wrenches and miscellaneous tools  
 2 - 25 ft. heart pine 4" x 8" boat keels  
 2 three-corner scrapers  
 2 oil drums  
 1 pr. iron wheels  
 Caulking irons  
 Sheet copper  
 Hand saw  
 Saw filing jig  
 Cypress and pine planking in loft  
 Brass shaft, 10 ft.  
 2 large screw jacks  
 Rotary pump  
 Propeller  
 Large knife-switch  
 1 "Pitcher" pump and pipe  
 1 Hospital ice box and compartments  
 1 gasoline tank  
 Plywood enclosure for cockpit  
 3 spring berths  
 8 mooring buoys  
 1 - 25 ton R. R. jack  
 Water pump (electric) and piping (approx. 300 ft.)  
 Wiring on dock, lights and outlets  
 Skiff and oars  
 Paint brushes  
 1 Butane tank  
 1 Grinder

The complainant, Joseph D. Middleton, and the respondent, A. J. Swirn, each own an undivided one-half interest in and to all of the above described real and personal property.

4. The one-half interest in and to the above described real and personal property, which is owned by the complainant, Joseph D. Middleton, is subject to a mortgage from Joseph D. Middleton and wife to P. J. Doyle, who is the same person as P. Joseph Doyle, dated September 26, 1950 and recorded in Book 176 of Mortgages at pages 360-3, Baldwin County, Alabama Records, which mortgage was given to secure an indebtedness of Seventeen Hundred Fifty Dollars (\$1750.00) and interest, which was due one year after date and which is still due and unpaid.

5. Part of the above described property has a building or buildings and a marine ways and wharf situated thereon, because

of all of which, it cannot be equitably divided between the said joint owners without a sale thereof and a division of the proceeds.

6. It has been necessary for the complainant to employ J. B. Blackburn, of Bay Minette, Alabama, and the firm of Austill and Austill, of Mobile, Alabama, for the purpose of filing this suit to effect a division of the said property between the said joint owners.

7. It will be to the best interest of all parties in this proceeding that an abstract of title be made to the above described real property, in order that this abstract can be examined by prospective purchasers prior to a sale, the cost of which should be taxed as a part of the costs of this proceeding.

#### PRAYER FOR PROCESS

Complainants pray that the Court will take jurisdiction of this Bill of Complaint; that due notice thereof in the form and manner prescribed by law be given to the respondent, requiring him to appear and plead, answer or demur to this Bill of Complaint within the time allowed by law.

#### PRAYER FOR RELIEF

Complainants pray for the following separate and several relief:

A. That the above described property be ordered sold in the manner prescribed by law for a division between the joint owners thereof.

B. That the Register of this court be authorized and empowered to have a complete abstract of title, covering all of the above described real property, made for an examination by prospective purchasers, and that the cost of such abstract be taxed as a part of the costs of this proceeding.

C. That the Court will make and enter a proper order or decree fixing the attorneys' or solicitors' fee to be paid to complainants' solicitors, making it a common charge against the proceeds of the sale of the said property.

D. Complainants further pray for such other, further and

general relief as they may be equitably entitled to, the premises considered.

J. B. Blackburn  
Arstall & Arstall

Solicitors for Complainants.



JOSEPH D. MIDDLETON, ET AL,

COMPLAINANTS

VS

A. J. SWERN

RESPONDENTS

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

~~Now comes the Respondent and demurs to the bill of complaint heretofore~~  
filed in this cause and to each and every aspect thereof and for grounds  
for said demurrers says:

1.

There is no equity in the bill.

2.

That there is no facts set out warranting a sale of the property  
for division.

3.

That the Allegation that the property cannot be equitably divided  
except by a sale thereof is but the conclusion of the pleader.

*J. M. Lee*  
Solicitor for the Respondent

JOSEPH D. MIDDLETON, ET AL,

COMPLAINANTS

VS

A. J. SWIRM

RESPONDENTS

DEMANDS

FILED

OCT 27 1952

ALICE J. DUCK, Register