

2909

MATT KRUMP and HERBERT KRUMP, I

Complainants, I IN THE CIRCUIT COURT OF

vs.

I BALDWIN COUNTY, ALABAMA.

MILDRED CASEY,

I IN EQUITY NO. _____

Respondent. I

Come the complainants in the above entitled cause and move the court to strike the respondent's demand for a jury trial in this cause upon the following separate and several grounds:

1. Because respondent is not entitled to a jury trial.
2. Because the subject matter of this suit is of general equitable jurisdiction not entitling respondent to a jury trial.
3. Because the bill of complaint in this case is governed by general principles of equity so that respondent is not entitled to a jury trial herein.
4. Because the gravamen of the bill of complaint herein is to remove a cloud from title, and the subject of general equitable principles not entitling respondent to a jury trial herein.

FILED

2-19-54

ALICE J. DUCK, Register

Chas. Stone
John McLeod Hunter
 Solicitors for Complainants

MATT KRUMP and HERBERT
KRUMP,

Complainants,
VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

MOTION

Now comes the respondent, by her solicitor, and shows unto the Court that this suit was filed by complainants, who are non-residents of the State of Alabama, without depositing or securing the court costs, as required by law; that respondent's time for pleading in this cause expired on, to-wit, November 24, 1952, and that on, to-wit, November 21, 1952, she filed in this cause a motion to dismiss this suit, unless court costs were deposited or secured.

Respondent further shows unto the Court that on this date, November 25, 1952, her solicitor received a copy of a letter from one of the solicitors for the complainant to the Register of this court, depositing One Hundred Dollars (\$100.00) as security for costs, and inquiring if further pleadings had been filed by the respondent.

Respondent further represents that the said amount of \$100.00, which has been deposited by the complainants, is not a sufficient deposit for costs in connection with this case.

WHEREFORE, respondent moves the Court to make and enter a proper order or decree fixing a proper amount to be deposited as security for costs by the said complainants, or in the event the amount deposited is held to be sufficient, that the Court will make and enter a proper order or decree fixing the time within which the respondent shall be required to file additional pleadings.

Respectfully submitted,

J. T. Blackburn
Solicitor for respondent.

STATE OF ALABAMA)
*
BALDWIN COUNTY)

I hereby certify that I mailed a copy of the foregoing motion to Chason and Stone, Bay Minette, Alabama, which firm is one of the attorneys for the complainants in this cause, by mail, postage prepaid, on this the 25th day of November, 1952.

J. B. Tshakburn
Solicitor for respondent.

FILED

11-25-52

ALICE J. DUCK, Register

MOTION

MATT KRUMP and HERBERT KRUMP,
Complainants,

VS.

MILDRED CASEY,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

FILED
NOV 25 1952
ALICE L. BUCK, Register

NOV 25 1952

NOV 25 1952

MATT KRUMP and HERBERT
KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2909

MOTION

Now comes the respondent and shows unto the Court that it affirmatively appears from the Bill of Complaint that was filed in this cause that the complainants are each non-residents of the State of Alabama and residents of Cook County, Illinois.

Respondent further shows unto the Court that the said complainants have not filed security for costs in this proceeding, or made a deposit with the Register for the purpose of paying or securing the said costs.

WHEREFORE, respondent moves the Court to dismiss this proceeding. Respondent moves the Court to grant unto her such other, further and general relief as she may be equitably entitled to, the premises considered.

J. B. Blackburn
Solicitor for Respondent.

Respondent demands a trial of said cause by jury.

J. B. Blackburn
Solicitor for Respondent.

FILED

11-21-52

ALICE J. DUCK, Register

MOTION

MATT KRUMP and HERBERT KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

FILED

NOV 21 1952

ALICE J. DUCK, Register

STATE OF ALABAMA
BALDWIN COUNTY

)
)
)

IN THE CIRCUIT COURT - IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Mildred Casey 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 Matt Krump and Herbert Krump as Complainants, against Mildred Casey, as Respondent.

Witness my hand this 14th day of October, 1952.

Alice J. Duck
Register.

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MATT KRUMP and HERBERT KRUMP, |
 |
 Complainants, |
 |
 vs. |
 |
 MILDRED CASEY, |
 |
 Respondent. |

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

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY,
 ALABAMA, SITTING IN EQUITY:

The Bill of Complaint exhibited by Matt Krump and Herbert Krump, Complainants, against Mildred Casey, Respondent, respectfully shows unto your Honor as follows:

1. That said Complainants, Matt Krump and Herbert Krump are both over the age of twenty-one years and residents of Cook County, Illinois, and the Respondent, Mildred Casey, is over the age of twenty-one years, and a resident of Baldwin County, Alabama.

2. The Complainants are the owners of and in possession of those certain lands in Baldwin County, Alabama, more particularly described as follows:

The South half of the Northeast Quarter of the Northeast Quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$); The South half of the Northeast Quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$); and the Southeast Quarter ($SE\frac{1}{4}$) of Section Twenty-nine (29), Township Eight (8) South, Range Four (4) East,

SAVE AND EXCEPT that certain lot or parcel of land more particularly described as follows:

Start at the Southwest corner of the Southwest Quarter of the Northeast Quarter of Section Twenty-nine, Township Eight South, Range Four East, Baldwin County, Alabama, and run East 420 feet, thence run South 520 feet; thence run West 420 feet; thence run North 520 feet to the place of beginning, containing five (5) acres, more or less.

3. That on the 7th day of October, 1952, your Complainants learned that Respondent claimed to have in her possession a deed of conveyance to her of the lands hereinabove described executed by one Nic Krump, now deceased, as grantor, on the 5th day of January, 1949, and on the 8th day of October, 1952, she produced in the Circuit Court of Baldwin County, Alabama, presided over at the time by the Honorable Telfair J. Mashburn, Jr., as Judge of said Court, a document purporting to be a deed of conveyance from said Nic Krump

to her, purporting to convey to her certain lands in Baldwin County, Alabama, including the lands hereinabove described, a copy of which document is hereto attached, marked Exhibit "A" and prayed to be made a part hereof; that these Complainants knew of no such document prior to the 7th day of October, 1952, and the same has never been recorded in the Office of the Probate Judge of Baldwin County, Alabama, but on the contrary had been intentionally withheld from record by her; that your Complainants herein derive their title to said lands through the Last Will and Testament of said Nic Krump, Deceased, who died seized and possessed of the same, his said Last Will and Testament having heretofore been admitted to probate and record in the Probate Court of Baldwin County, Alabama, by an order of said Court made on the 11th day of June, 1951.

4. That on the 5th day of January 1949, the purported date of the execution and delivery of said document, a copy of which is attached hereto as Exhibit "A", the said Nic Krump was of unsound mind, and incapable of executing and delivering said document as a valid deed of conveyance of said lands, of which facts the Respondent well knew.

5. That said document purporting to be a deed of conveyance from Nic Krump to Mildred Casey dated January 5, 1949, mentioned in paragraph 3 hereof was not executed by the said Nic Krump nor anyone authorized to bind him in the premises.

6. That the Complainants do not know the true date on which the said Nic Krump may have actually signed his name to the original physical paper which now purports to be a conveyance of the lands described in paragraph 3 hereof to the Respondent, but they aver that whether said paper was signed on January 5, 1949, or afterwards the said Nic Krump was at the time a man above 73 years of age, was suffering from senile dementia and a complication of other diseases that for a long time prior to the time of said signing had been gradually undermining both his body and mind, in consequence whereof he had completely passed under the dominion and influence of the Respondent, then a young woman of approximately 34 years of age, she

having during the years from 1934 to 1938 been employed by him as a domestic servant in his home and as a nurse to attend his wife then suffering from a mental disease; that through the exercise by the Respondent of undue influence over him she caused or procured him to sign his name to said original physical paper upon which now appears the contents of Exhibit "A" hereto attached whatever its contents may have been at the time of said signing by him, without any consideration having passed to the said Nic Krump therefor; that Complainants never knew of the existence of said document, a copy of which is attached hereto as Exhibit "A" until October 7, 1952.

7. That said document, a copy of which is hereto attached, marked Exhibit "A" and made a part hereof, constitutes a cloud upon the title of your Complainants to said lands, which Complainants are entitled to have removed by this court.

PRAYER FOR PROCESS

Premises considered, Complainants pray that your Honor will cause the usual Writ or process to issue to the said Mildred Casey requiring her to appear, plead, answer or demur to the Bill of Complaint within the period of time and under the penalties prescribed by the statutes and the rules of this Court.

PRAYER FOR RELIEF

The premises considered, your Complainants would pray that on the final hearing of this cause, your Honor will be pleased to order and decree: (a) That said purported deed of conveyance, a copy of which is hereto attached as Exhibit "A" is null and void, and of no binding force and effect; (b) That the said Mildred Casey has no right, title or interest in or to the lands hereinabove described; (c) That said document purporting to be a deed of conveyance be cancelled as a cloud upon your Complainants' title; (d) That said deed be delivered over by the Register of this Court to the Complainants herein; (e) That a copy of said decree be recorded in the Office of the Judge of Probate of Baldwin County, Alabama; (f) That the costs of recording said decree be taxed as part of the costs of this proceeding.

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And, if your Complainants have not prayed for the proper relief, may it please your Honor to grant unto them such other, further, different and general relief, as in equity and good conscience they may be entitled to, the premises considered.

Houston, McCall & Hudson
Thompson and Stone
B. J. Johnson
Solicitors for Complainants.

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EXHIBIT "A"

STATE OF ALABAMA
BALDWIN COUNTY

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of TEN DOLLARS and other valuable considerations to me in hand paid by Mildred Casey, the receipt whereof is hereby acknowledged I, Nic Krump, do grant, bargain, sell and convey unto the said Mildred Casey, the following described lands situated in Baldwin County, Alabama, to-wit:-

Start at the Southwest Quarter of the Southwest Quarter of the Northeast Quarter of ~~said~~ Section Twenty-nine, Township Eight South and Range Four East, Baldwin County, Alabama, and run East Four-hundred-twenty (420) feet, thence run South five-hundred-twenty (520) feet; thence run West four-hundred-twenty (420) feet; thence run North five-hundred-twenty (520) feet; to place of BEGINNING:- Containing FIVE (5) ACRES, more or less.

The said Grantor, Nic Krump, is a married man, and his wife Winfred Krump, is insane, and there is attached to this conveyance, a copy duly certified, if the certificate of the Superintendent of the Alabama State Hospitals, certifying, that in the opinion of the said Superintendent, the said Winfred Krump, is permanently insane.

The South-half ($\frac{1}{2}$) of the North-east Quarter ($\frac{1}{4}$) of the North-east Quarter ($\frac{1}{4}$); The South-half ($\frac{1}{2}$) of the Northeast Quarter ($\frac{1}{4}$); The South-east Quarter ($\frac{1}{4}$) of Section Twenty-nine (29), Township Eight (8) South; Range Four (4) East. Less Five (5) Acres described above.

TO HAVE AND TO HOLD to the said Mildred Casey, her heirs and assigns forever.

And I do covenant with the said Mildred Casey that I am seized in fee of the above described premises; that I have the right to sell and convey the same, that the said premises are free from all encumbrances; and that I will and my heirs, executors and administrators shall forever WARRANT AND DEFEND the same to the said heirs and assigns, against the lawful claims of all persons whomsoever.

WITNESS my hands and seal this 5th day of January, 1949.

WITNESSES:

_____	Nic Krump	L.S.
_____		L.S.
_____		L.S.

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STATE OF ALABAMA

BALDWIN COUNTY

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||
||

SS

I, Claude Peteet, a Notary Public in and for said State and County, do hereby certify that Nic Krump 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 said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5th day of January, 1949.

Claude Peteet
Notary Public, Baldwin County,
Alabama.
My Commission Expires August
14, 1951.

FILED

10-14-52

ALICE L. BUCK, Register

BOOK

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Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. 2909

MATT KRUMP & HERBERT KRUMP
Complainant.

vs.

MILDRED CASEY
Respondent.

I, Alice J. Duck Register of the Circuit Court In Equity,
Baldwin County, Alabama, hereby certify that in the cause of
MATT KRUMP & HERBERT KRUMP Complainant,

vs.

MILDRED CASEY Respondent,

which was tried and determined in this Court on the 30th day of
June 1954, in which there was a decree in favor of the
Complainant.

On the 23rd day of December 1954, the Defendant
took an appeal to the
Supreme Court of Alabama, to be holden of and for said State.

I further certify that Claude Peteet and Mildred Casey
filed security for cost of appeal, to the Supreme Court,
on the 23rd day of December 1954, and that
Claude Peteet, Mildred Casey

are sureties on the appeal bond.

I further certify that notice of said appeal was on the 31st
day of Dec, 1954 served on Chas on & Stone
as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 28th day
of December, 1954

Register of the Circuit Court In Equity of

Alice J. Duck County, Alabama.

MATT KRUMP AND HERBERT KRUMP,
Complainants,
VS.
MILDRED CASEY,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.
IN EQUITY
No. 2909

This cause coming on to be heard is submitted for decree upon the demurrers filed by the Respondent to the original and amended bill of complaint.

It is the opinion of the Court that the demurrers to all stated paragraphs of the complaint are not well taken, except as to paragraph Six A of the amended bill of Complaint.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the demurrers of the Respondent to the original and amended bill of Complaint be, and the same are hereby overruled, except as to Paragraph Six A of the amended bill of complaint.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the demurrers of the Respondent to paragraph Six A. of the amended bill of complaint be and the same are hereby sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Complainant be and they are hereby given 20 days in which to file additional pleadings, if they see fit.

This 16th day of April, 1954.

J. Hubert M. Hae
Judge of the 28th Judicial Circuit of Alabama.

MATT KRUMP and HERBERT KRUMP,) IN THE CIRCUIT COURT OF
 Complainants,)
 vs.) BALDWIN COUNTY, ALABAMA.
 MILDRED CASEY,)
 Respondent.) IN EQUITY No. 2909

Come the complainants and amend the bill of complaint as heretofore amended, as follows:

1. By amending paragraph 6 (a) thereof so that the same shall read as follows:

6.(a) The real property described in paragraph 2 of the original bill is now and was on the 5th day of January, 1946, known as the "airport property", is used as an airport, and had on said date and now has the reasonable and fair market value of more than \$20,000.00; and, if complainants are mistaken as to the facts alleged in paragraphs 4 and 5 of the original bill, they charge in the alternative that at the time of the alleged execution of said instrument, a copy of which is attached to the original bill of complaint as Exhibit "A", the said Nic Krump was an old man above 73 years of age, of feeble health in body and mind, and was under the dominion and influence of the respondent, then a young woman of approximately 34 years of age; and said respondent was the dominant party in said transaction, and the execution of said alleged conveyance was the result and product of undue influence exercised by the respondent over the mind of the said Nic Krump, and it was not the exercise of his free volition.

FILED
 4-20-54

ALICE I. BOCK, Register

Parson & Stone
By John Parson

Phinton McLeod Hunter
 Solicitors for Complainants

AMENDMENT TO BILL OF COMPLAINT

MATT KRUMP and HERBERT KRUMP,
Complainants,

vs.

MILDRED CASEY,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

Filed this 20th day of April, 1954.

W. J. ...
Register.

LAW OFFICES OF
D. R. COLEY, JR.
302-6 FIRST FEDERAL SAVINGS BUILDING
106 ST. JOSEPH STREET
MOBILE, ALABAMA

SYDNEY S. PFLEGER
CHRIS C. DE LANEY

August 17, 1953

Mrs. Alice Duck,
Clerk of the Circuit Court,
Baldwin County,
Bay Minette, Alabama.

Dear Mrs. Duck:

I enclose herewith appearances in Equity case
No. 2909, and Equity case No. 2803, and in Law case No.
1472, all of which are styled Krump vs. Casey.

It will be appreciated if you will file these
appearances and acknowledge.

Thanking you in advance for your courtesy,

I am

Very Truly yours,


Chris C. De Laney

D/L
Enc.

CHASON & STONE
ATTORNEYS AT LAW
BAY MINETTE, ALABAMA

JOHN CHASON
NORBORNE C. STONE

November 24, 1952

PHONE 3641

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

Dear Mrs. Duck: Re: Krump v. Casey
No. 2909

Mr. Blackburn filed a motion in the above case on November 21st, a copy of which I have received this day, to dismiss the above suit because a deposit for costs had not been made. In the previous case the Court required a deposit of \$100.00 and so I am enclosing herewith my check as Administrator of the Estate of Nic Krump, Deceased, in the sum of \$100.00 as a deposit in case No. 2909. I am sending a copy of this letter to Mr. Blackburn and to the Judge so that they will be informed that such deposit has been made. Will you please advise us whether Mr. Blackburn has filed any further pleading in this case.

Yours very truly,

CHASON & STONE

BY: 

JC:am
CC: Mr. J. B. Blackburn
Attorney at Law
Bay Minette, Alabama

CC: Judge Telfair J. Mashburn, Jr.
Bay Minette, Alabama

SEP 15 1955

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM, 1955

1 Div. 628

Mildred Casey,

v.

Matt and Herbert Krump,

Appeal from Baldwin Circuit Court,
In Equity.

STAKELY, JUSTICE.

This is a suit brought in equity by Matt Krump and Herbert Krump (appellees) against Mildred Casey (appellant) to cancel and remove a deed as a cloud upon the title to lands of the complainants.

2.

The grounds for relief are (1) that on the 5th day of January 1949, the purported date of execution and delivery of the alleged deed, the grantor Nic Krump was of unsound mind and incapable of executing and delivering a valid conveyance of the lands embraced therein, of which facts the respondent well knew, (2) that the document purporting to be a deed of conveyance from the grantor Nic Krump to Mildred Casey dated January 5, 1949, was not executed by Nic Krump nor by anyone authorized to bind him in the premises and (3) if mistaken as to the first two grounds, the original deed was a product of undue influence exercised by the respondent Mildred Casey upon Nic Krump, the grantor. It was further averred that the complainants are the owners and in possession of the lands described in the alleged deed.

The demurrer to the bill as last amended was overruled. It should be observed that the bill in this case is not a statutory bill to quiet title. On the contrary it is a bill in equity to cancel and remove a deed as a cloud upon the title to complainants' land in their possession. In King v. Artman, 225 Ala. 559, 144 So. 442, it was said:

"The equity of the bill in this case is to cancel and remove a deed as a cloud upon the title of complainant * * *. It is not a statutory bill, lacking several essentials as such."

In a bill to cancel a deed as a cloud upon the title it is not necessary, as contended by appellant, to allege peaceable possession of the land as required in a bill to quiet title under the statute. The bill is sufficient if it alleges that complainants are the owners of the land and in possession thereof. —Low v. Low, 255 Ala. 536, 52 So2d 218.

3.

In the case last cited it was said:

"Being in possession, when his right is to have an instrument which appears to be a deed cancelled as a cloud upon his title, the essentials of his bill stated in broad terms are the existence of an instrument which appears on its face to be valid and affects his title, but which is not so on account of matter not so appearing, so that it takes evidence other than that shown by the instrument to prove its invalidity. King v. Artman, 225 Ala. 569, 144 So. 442."

See also Randolph v. Randolph, 245 Ala. 689, 18 So2d 555.

Furthermore in a bill of the kind here under discussion there is no need to allege that there is no pending suit to test the title to the lands. In this connection in Bank of Henry v. Elkins, 165 Ala. 628, 51 So. 821, this court said:

"Independent of our statute for the quieting of titles and the determination of claims to real estate, courts of equity have jurisdiction to cancel and remove a specially described cloud upon the complainant's title, when the owner is in possession, and when the evidence of the alleged cloud is not void on its face, and extrinsic evidence is necessary to show its invalidity."

In the last mentioned case it was further said:

"Had the bill been an effort to avail of the statutory system mentioned, then, of course, observation of the statutory requirement would have been essential, such as averments of peaceable possession, and that there was no suit pending to enforce or test the validity of the title, claim, etc. The demurrer was properly overruled."

See also Ferman v. Thomas, 202 Ala. 291, 80 So. 356.

4.

Paragraph 4 of the bill as last amended contains the following allegation:

"That on the 5th day of January, 1949, the purported date of the execution and delivery of said document, a copy of which is attached to the original bill of complaint as Exhibit 'A', the said Nic Krump was of unsound mind, and incapable of executing and delivering said document as a valid deed of conveyance of said lands, of which facts the respondent well knew."

The foregoing allegation is sufficient. --Casey v. Krump, 260 Ala. 280, 69 So2d 864; Cox v. Parker, 212 Ala. 35, 101 So. 657.

With reference to undue influence the allegations of the bill as last amended are as follows:

"6 (a) * * * and if complainants are mistaken as to the facts alleged in Paragraphs 4 and 5 of the original bill, they charge in the alternative that at the time of the alleged execution of said instrument, a copy of which is attached to the original bill of complaint as Exhibit 'A', the said Nic Krump was an old man above 73 years of age, of feeble health in body and mind, and was under the dominion and influence of the respondent, then a young woman of approximately 34 years of age; and said respondent was the dominant party in said transaction, and the execution of said alleged conveyance was the result and product of undue influence exercised by the respondent over the mind of the said Nic Krump, and it was not the exercise of his free volition."

The foregoing allegations as to undue influence are sufficient. --
Cox v. Parker, 212 Ala. 35, 101 So. 657; Strickland v. Strickland, 206 Ala. 452, 90 So. 745; Mindler v. Crocker, 245 Ala. 578, 18 So2d 278;
Ross v. Washington, 233 Ala. 292, 171 So. 893.

5.

It is argued that since the deed is sought to be cancelled upon the ground that Nic Krump was of unsound mind on the date of the deed which is alleged to have been executed and delivered and upon the further ground that such deed was never actually executed and delivered by the said Nic Krump, the allegation that the said deed was the result of undue influence exercised by Mildred Casey upon Nic Krump, was repugnant to the other allegations rendering the bill duplicitous. The allegations were in the alternative and the objection is not well taken. —Cox v. Parker, 212 Ala. 35, 101 So. 657; Shinnan v. Furniss, 69 Ala. 555, 55 Am. Rep. 528.

The court was not in error in overruling the demurrer to the bill of complaint as last amended.

The evidence is voluminous but we do not think it necessary to set out the evidence in detail. It follows in many respects the pattern of the evidence in the case of Casey v. Krump to which we have referred and which is reported in 260 Ala. 280, 69 So2d 364. In fact while trying that case and being interrogated with reference to the deeds which the court subsequently set aside in that case, Mildred Casey made the statement that she also had a deed to the airport property in Baldwin County, a piece of property which the evidence tended to show was a valuable piece of property worth \$20,000.00 or more. The deed involved in the instant case to the foregoing property bears date of January 5, 1949, and purports to have been executed by Nic Krump to Mildred Casey for \$10.00 and other valuable considerations. Mildred Casey in her testimony conceded that all of these deeds represented gifts to her by Nic Krump.

6.

The complainants, appellees here, are the brothers of Nic Krump, deceased, and are the sole legatees and devisees under his last will and testament made on July 21, 1938. The will was admitted to record and probate in the Probate Court of Baldwin County on June 11, 1951. In her testimony in the former litigation to which we have alluded Mildred Casey testified that she never recorded the deed here in question, never assessed the property for taxes and didn't pay any taxes on it although at that time more than three years and nine months had elapsed after its alleged execution.

There is testimony in the case tending to show that Nic Krump was of unsound mind on January 5, 1949. The proof shows that he was suffering from senile psychosis in 1946 and examinations made by physicians as late as January 1950 showed that his mental condition had grown worse. The proof showed that senile psychosis is a chronic progressive disease and becomes worse as a person grows older. There is proof tending to show that Mildred Casey knew about the mental condition of Nic Krump.

At the time of the execution of the deed Nic Krump was about 74 years of age, infirm and in bad health. On the contrary, Mildred Casey was a young woman about 34 years of age and in 1934 came to live in the home of Nic Krump when his wife contracted pneumonia. The proof tends to show a close relation or association between Nic Krump and Mildred Casey over the years. The proof shows for example that she visited him in Eagle River, Wisconsin in 1938, at which time he gave her \$500.00. When asked how she happened to visit him at that time

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she answered, "Well, I knew he was there" and when the question was propounded "Well, you went to see him?" she answered, "I saw him, yes." She went to Eagle River again to see him in 1946 and stayed for two weeks.

The court found that the respondent was closely associated with Nic Krump for a number of years and had received gifts of property from him from time to time. That he was an ailing man of mature years and was suffering from senile psychosis which progressed until January 1950 and that the purported deed from Nic Krump to Mildred Casey dated January 5, 1949, is null and void and of no binding force and effect.

As stated, we have not undertaken to set out all the evidence. We think it is ample to sustain the findings of the court and that the decree rendered by the court holding the deed null and void should be upheld. The testimony of all of the witnesses was taken orally before the trial court except that portions of the cross examination of Mildred Casey given in Casey v. Krump, supra, were introduced in evidence. The findings of the court on the entire evidence has the weight of a jury verdict and accordingly will not be disturbed since we do not consider it palpably and plainly wrong and contrary to the great weight of the evidence. — Gardiner v. Willis, 258 Ala. 647, 64 So2d 609; St. Paul Fire and Marine Ins. Co. v. Johnson, 259 Ala. 627, 67 So2d 896; Ray v. Ray, 245 Ala. 591, 18 So2d 273.

The decree of the lower court is due to be affirmed.

Affirmed.

Livingston, C. J., Lawson and Merrill, JJ., concur.

THE STATE OF ALABAMA--JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 628

MILDRED CASEY, Appellant

vs.

MATT KRUMP AND HERBERT KRUMP, Appellee, s

From BALDWIN IN EQUITY No. 2909 Circuit Court.

The State of Alabama, }
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to seven inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme Court of Alabama, this the 15th day of

SEPTEMBER, 19 55

J. Render Thomas
Clerk of the Supreme Court of Alabama

note

THE SUPREME COURT OF ALABAMA

Special

October Term, 1954-55

1st Div., No. 628

MILDRED CASEY

Appellant,

vs.

MATT KRUMP AND

HERBERT KRUMP

Appellees

From BALDWIN CIRCUIT Court.
IN EQUITY No. 2909

COPY OF OPINION

SKINNER

MATT KRUMP AND
HERBERT KRUMP,
Complainant,
VS.
MILDRED CASEY
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

DEMURRER

Comes the Respondent in the above styled cause, and
for Demurrer to the Bill of Complaint, assigns as follows:

1. There is no Equity in the Bill of Complaint.

FILED

12-29-52

ALICE J. DOCK, Register

J. B. Blashen
Attorney for Respondent

BOOK 015 PAGE 67

BOOK 015 PAGE 121

Matt Krump and Herbert Krump,
Complainants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

Vs.

In EQUITY- No. 2909

Mildred Casey
Respondent

Comes now the respondent and demurs to the Bill of
complaint as last amended and as grounds therefor reassigns
the grounds of demurrer originally filed to the Bill of

Complaint and further saaigns the following additional grounds, *to the bill as a whole and to each aspect thereof separately and severally;*

A. Because the Bill does not allege that the result was
accomplished through the dominating influence of Mildred
Casey, and that such result was the act and will of Mildred
Casey and not the act and will of Nic Krump.

B. Because the Bill of Gomplaint as amended is duplicitious
in that it undertakes to assert that the deed involved was void
for that the grantor was a person of unsound mind and mentally
incapable of executing said deed; that the deed is void for
want of consideration; that in effect the deed was procured
by the fraud of Mildred Casey, and that the deed was procured
by undue influence.

C. Because the Bill of Complaint as amended does not contain
a clear and orderly statement of facts on which it challenges
the validity of the conveyance sought to be avoided without
prolixity or repetition in the averments as required by Rule
11, Equity Practice, Code of 1940, Title 7, page 1050.

FILED

4-13-54

ALICE J. DUCK, Register

[Signature]

[Signature]

Solicitors for Respondent

MATT KRUMP and
 HERBERT KRUMP,

 VS. Complainants,

 MILDRED CASEY,

 Respondent.

IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA
 IN EQUITY NO. 2909

AMENDED DEMURRER

Now comes the respondent and amends the demurrer heretofore filed by her in this cause so that, as amended, it will read as follows:

I.

Now comes the respondent and demurs to the Bill of Complaint filed against her in this cause and as grounds for such demurrer assigns, separately and severally, the following:

1. There is no equity in the Bill of Complaint.
2. The allegations of the Bill of Complaint are but conclusions of the pleader and no facts are alleged to show complainants' right to the relief which they are seeking.
3. No facts are alleged to show that the deed which complainants are seeking to have cancelled was made, executed and delivered without consideration.
4. No facts are alleged to show what consideration was paid for the deed which complainants are seeking to have cancelled.
5. No facts are alleged to show that the complainants are entitled to have the deed described in the Bill of Complaint delivered to them.
6. No facts are alleged to show whether or not there is any suit pending to try or test respondent's title or right to possession of the lands described in the Bill of Complaint.
7. No facts are alleged to show that the deed described in the Bill of Complaint was obtained by the respondent by the exercise of undue influence on Nic Krump.

II.

Now comes the respondent and demurs to that aspect or phase of the Bill of Complaint whereby the complainants are seek-

BOOK 015 PAGE 123

ing to have the deed described therein declared null and void and of no binding effect, and as grounds of such demurrer assigns demurrers numbered 1 through 7, both inclusive, which are set out above just as though the said demurrers numbered 1 through 7 were specifically rewritten here.

III.

Now comes the respondent and demurs to that aspect or phase of the Bill of Complaint whereby the complainants are seeking to have it adjudicated that respondent has no right, title or interest in and to the lands described in the Bill of Complaint, and as grounds of such demurrer assigns demurrers numbered 1 through 7, both inclusive, which are set out above, just as though the said demurrers numbered 1 through 7 were specifically rewritten here.

IV.

Now comes the respondent and demurs to that aspect or phase of the Bill of Complaint whereby the complainants are seeking to have the deed described therein cancelled as a cloud on complainants' title, and as grounds of such demurrer assigns demurrers numbered 1 through 7, both inclusive, which are set out above, just as though the said demurrers numbered 1 through 7 were specifically rewritten here.

V.

Now comes the respondent and demurs to that aspect or phase of the Bill of Complaint whereby the complainants are seeking to have the deed described therein delivered over to them, and as grounds of such demurrer assigns demurrers numbered 1 through 7, both inclusive, which are set out above, just as though the said demurrers numbered 1 through 7 were specifically rewritten here.

FILED

2-19-53

ALICE J. DUCK, Register

J. B. Blossum
Solicitor for respondent.

MATT KRUMP AND HERBERT KRUMP,
Complainants,
VS.
MILDRED CASEY,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA. IN EQUITY
NO. 2909

BOOK 213 PAGE 222

The Complainants, Matt Krump and Herbert Krump, filed their bill in the Circuit Court of Baldwin County, Alabama, in equity, against the Respondent, Mildred Casey, to set aside a deed purporting to have been executed by Nic Krump, through whom the Complainants hold, to the Respondent, on January 5, 1949, on the ground that the said Nic Krump was of unsound mind and incapable of executing and delivering said document as a valid deed of conveyance to the said lands; that said conveyance was not executed by the said Nic Krump, nor any one authorized to bind him; that the said Nic Krump was an old man above 73 years of age, of feeble health in body and mind, and was under the dominion and influence of the Respondent, then a young woman of approximately 34 years of age, and that the Respondent was the dominant party in said transaction, and the execution of said alleged conveyance was the result and product of undue influence exercised by the Respondent over the mind of the said Nic Krump, and it was not the exercise of his own volition; the Respondent denied all of the allegations set forth in the bill of complaint;

The parties, after the ruling on and disposition of the various pleadings, went to trial and the testimony of the various witnesses for the Complainants and for the Respondent was taken ore tenus.

It is the tendency of the testimony of the several witnesses that the Respondent was closely associated with the said Nic Krump for a number of years, and had received from him gifts of property from time to time; that the said Nic Krump was, for a number of years, beginning in 1929, an ailing man of mature

years; that in 1946 he was suffering from senile dementia and senile psychosis, which was a progressive condition and that it progressed until in January, 1950, when he was, on several occasions examined by a Physician, and in accordance with the testimony of the said Physician, did not have the mental capacity to conduct any of his business affairs; that the conveyance under consideration was executed on January 5, 1949;

That on January 5, 1949, the said Nic Krump executed and delivered to the respondent a warranty deed, conveying the property under consideration, which deed is evidence in the case and identified as Complainants' exhibit F., which deed was never filed for record, and that the Respondent has not assessed and paid taxes on the property thereby allegedly conveyed; that the said conveyance conclusively establishes the fact that there was an alteration, which the Respondent did not sufficiently explain to the Court.

The Court, therefore, is of the opinion and to the conclusion, after considering all of the pleadings, the testimony of the witnesses, together with the Exhibits offered in evidence, and having had an opportunity to observe all of the witnesses, that the Complainants are entitled to the relief prayed for;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court, as follows:

1. That the purported deed from Nic Krump to Mildred Casey, dated January 5, 1949, and acknowledged on January 5, 1949, by Nic Krump before Claude Peteet, Notary Public, Baldwin County, Alabama, is null and void and of no binding force and effect;
2. That the said Respondent, Mildred Casey, has no right, title or interest in and to the lands described in the said deed from Nic Krump to Mildred Casey, dated January 5, 1949, and

described as follows:

Start at the Southwest quarter of the southwest quarter of the Northeast Quarter, of Section Twenty-nine, Township Eight South, Range Four East, Baldwin County, Alabama, and run East Four Hundred twenty (420) feet, thence run South Five Hundred Twenty (520) feet; thence run West Four hundred twenty feet, thence run North five hundred twenty (520) feet to place of beginning, containing Five (5) acres more or less.

The South half of the Northeast Quarter of the Northeast Quarter; the South half of northeast Quarter; the southeast Quarter of Section Twenty-nine (29) Township Eight (8) South, Range Four (4) East, less Five acres described above;

3. That a certified copy of this decree be recorded in the office of the Judge of Probate of Baldwin County, Alabama, and the cost thereof be taxed as a part of the cost in this proceeding.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent be, and she is hereby taxed with the cost herein accrued, for which execution may issue.

Dated at Bay Minette, Alabama, this 30th day of June, 1954.

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

I, Alice J. Dock, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in above stated cause, which said decree is on file and available to my office.

WITNESS MY HAND AND SEAL THIS 30th day of June 1954

Alice J. Dock
Register of Circuit Court, in Equity

STATE OF ALABAMA, BALDWIN COUNTY

Filed 9-15-54 3:30 P.M.

Recorded *Dud* book 213 page 222-4

M. B. Stuntz
Judge of Probate 5

WITNESSES IN HAND AND SEAL THIS 12th day of June 1933
and caused my official duties to be duly performed by me
original documents rendered by the Judge of the Circuit Court of Baldwin
County, do hereby certify that the foregoing is a correct copy of the
same as it was originally on file in the Circuit Court of Baldwin County

Register of Circuit Court in Baldwin
Robert M. Hill

1
1933
Recorded *File* June 15th 1933
Filed *12-28* 5:30 P.M.
STATE OF ALABAMA, BALDWIN COUNTY

of Alabama
Judge of the Court Superior Circuit
Robert M. Hill

1933

Dated at Bay Minette, Alabama, this 20th day of June,
and herein entered, for which execution may issue.

Court that the Respondent be and she is hereby taxed with the

IN IT HEREBY ORDERED, ADJUDGED AND DECREED BY THE

Proceedings.

and the said amount be taxed as a part of the cost in this

in the offices of the Judge of Probate of Baldwin County, Alabama,

3. I have a certified copy of this decree be recorded

that I see this have described above:

mine (50) Township North (8) Range, Range Four, (1)

herewith granted; the fourth part of said amount;

the fourth part of the herewith granted of the

made as here.

for to have of beginning, comprising the (2) acres

of 1907, thence NW 1/4 of Section 14, Township North (250)

North (250) East Range and West Range, Range Four, (1)

of Baldwin County, Alabama, section 14, Township North

North (250) East Range, Range Four, Range Four, (1)

of Baldwin County, Alabama, of Section 14, Township North

of Baldwin County, Alabama, of Section 14, Township North

of Baldwin County, Alabama, of Section 14, Township North

described as follows:

R 250
Mrs. Duck

MATT KRUMP AND HERBERT KRUMP,)	IN THE
)	
Complainants,)	CIRCUIT COURT OF BALDWIN
)	COUNTY, ALABAMA, IN EQUITY.
VS.)	
)	No. 2909
MILDRED CASEY,)	
)	
Respondent.)	

The Complainants, Matt Krump and Herbert Krump, filed their bill in the Circuit Court of Baldwin County, Alabama, in equity, against the Respondent, Mildred Casey, to set aside a deed purporting to have been executed by Nic Krump, through whom the Complainants hold, to the Respondent, on January 5, 1949, on the ground that the said Nic Krump was of unsound mind and incapable of executing and delivering said document as a valid deed of conveyance to the said lands; that said conveyance was not executed by the said Nic Krump, nor any one authorized to bind him; that the said Nic Krump was an old man above 73 years of age, of feeble health in body and mind, and was under the dominion and influence of the Respondent, then a young woman of approximately 34 years of age, and that the Respondent was the dominant party in said transaction, and the execution of said alleged conveyance was the result and product of undue influence exercised by the Respondent over the mind of the said Nic Krump, and it was not the exercise of his own volition; the Respondent denied all of the allegations set forth in the bill of complaint;

The parties, after the ruling on and disposition of the various pleadings, went to trial and the testimony of the various witnesses for the Complainants and for the Respondent was taken ore tenus.

It is the tendency of the testimony of the several witnesses that the Respondent was closely associated with the said Nic Krump for a number of years, and had received from him gifts of property from time to time; That the said Nic Krump was, for a number of years, beginning in 1929, an ailing man of mature

years; that in 1946 he was suffering from senile dementia and senile psychosis, which was a progressive condition and that it progressed until in January, 1950, when he was, on several occasions examined by a Physician, and in accordance with the testimony of the said Physician, did not have the mental capacity to conduct any of his business affairs; that the conveyance under consideration was executed on January 5, 1949;

That on January 5, 1949, the said Nic Krump executed and delivered to the respondent a warranty deed, conveying the property under consideration, which deed is evidence in the case and identified as Complainants' exhibit F., which deed was never filed for record, and that the Respondent has not assessed and paid taxes on the property thereby allegedly conveyed; that the said conveyance conclusively establishes the fact that there was an alteration, which the Respondent did not sufficiently explain to the Court.

The Court, therefore, is of the opinion and to the conclusion, after considering all of the pleadings, the testimony of the witnesses, together with the Exhibits offered in evidence, and having had an opportunity to observe all of the witnesses, that the Complainants are entitled to the relief prayed for;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court, as follows:

1. That the purported deed from Nic Krump to Mildred Casey, dated January 5, 1949, and acknowledged on January 5, 1949, by Nic Krump before Claude Peteet, Notary Public, Baldwin County, Alabama, is null and void and of no binding force and effect;

2. That the said Respondent, Mildred Casey, has no right, title or interest in and to the lands described in the said deed from Nic Krump to Mildred Casey, dated January 5, 1949, and

described as follows:


Start at the south-west quarter of the southwest Quarter of the Northeast quarter, of Section Twenty-nine, Township Eight South, Range Four East Baldwin County, Alabama, and run East Four Hundred twenty (420) feet, thence run South Five Hundred Twenty (520) feet; thence Run West four hundred twenty feet, thence run North five hundred twenty (520) feet to place of beginning, containing Five (5) acres more or less.

The South half of the Northeast Quarter of the Northeast Quarter; the South half of the Northeast Quarter; the Southeast Quarter of Section twenty-nine (29) Township Eight (8) South, Range Four (4) East. Less Five (5) acres described above;

3. That a certified copy of this decree be recorded in the office of the Judge of Probate of Baldwin County, Alabama and the cost thereof be taxed as a part of the cost in this proceeding.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent be, and she is hereby taxed with the cost herein accrued, for which execution may issue.

Dated at Bay Minette, Alabama, this 30th day of June, 1954.


Judge of the 28th Judicial
Circuit of Alabama.

MATT KRUMP AND HERBERT
KRUMP,

Complainants

vs

MILDRED CASEY

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

The defendant having given notice of appeal from the judgment of the Circuit Court in the above styled cause rendered on June 30, 1954, to the Supreme Court of Alabama, said appeal being taken from final decree rendered for the plaintiff against the defendant, the undersigned Mildred Casey, as principal, and Claude Petot, as surety, acknowledge themselves security for all costs in said appeal in the penal sum of FIFTY DOLLARS (\$50.00), as to which we hereby waive our right of exemption to personal property under the Constitution and laws of the State of Alabama.

Entered into on this the 22 day of December, 1954.

Mildred Casey (SEAL)
Principal

Claude Petot (SEAL)
Surety

MATT KRUMP and
HERBERT KRUMP,

Complainants,

vs

MILDRED CASEY,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY SITTING.

NO. 2909

Come now D. R. Coley, Jr. and Chris C. De Laney,
and appear for the Respondent in the above entitled cause
and reserve the right to plead, answer or demur further.

FILED

8-19-53

ALICE J. DWCK, Register

D. R. Coley, Jr.
Chris C. De Laney
SOLICITORS FOR RESPONDENT



The State of Alabama
Baldwin County

IN THE CHANCERY COURT OF BALDWIN COUNTY

To MATT KRUMP & HERBERT KRUMP

Or To Chason & Stone, Solicitors of record.

Whereas, on the 23rd day of December, 1954,

Mildred Casey

took an appeal from the decree rendered on the 30th day of June

1954, by the Circuit Court of said county, in the cause of _____

Matt Krump & Herbert Krump

versus Mildred Casey

Now, therefore, you are cited to appear as required by law, before the Supreme Court of Alabama. to defend on said appeal, if you think proper so to do.

Witness my hand this 28th day of December, 1954

Alice J. ...
Register in Chancery.

MATT KRUMP AND HERBERT
KRUMP,

Complainants,

vs

MILDRED CASEY,

Respondent;

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

Comes, Mildred Casey, defendant in the above styled cause and gives notice of appeal from the decree of the Circuit Court, sitting in equity, rendered in said cause on the 30th day of June, 1954, to the Supreme Court of Alabama.

Mildred Casey
Defendant

MATT KRUMP and HERBERT KRUMP,)	IN THE CIRCUIT COURT OF
Complainants,)	BALDWIN COUNTY, ALABAMA,
VS.)	
MILDRED CASEY,)	IN EQUITY NO. 2909
Respondent.)	

Comes now the Respondent, and for answer to the bill of complaint herein says:

FIRST: She admits the allegations of paragraph 1.

SECOND: She denies the allegations of paragraph 2.

THIRD: Answering paragraph 3, she says that she does not know when complainants learned that she had in her possession a deed of conveyance to her of the lands described in the bill of complaint executed by Nic Krump on the 5th day of January, 1949, but says and shows that the said Nic Krump did execute and deliver to her a deed conveying said lands to her on, to-wit, the 5th day of January, 1949, and that such deed was kept by her in her possession at all times thereafter; that on, to-wit, the 8th day of October, 1952, she did produce said deed in the Circuit Court of Baldwin County, Alabama. She neither denies nor admits that complainants did not know that such document existed prior to that time, but says and shows that the said complainants were not residents of Baldwin County, Alabama, and that she had no occasion or reason to show said deed to them, nor was any inquiry made by them as to whether she had such deed. She admits that she had not had said deed recorded in the office of the Probate Judge of Baldwin County, Alabama, but says and shows that her failure to do so was not for the purpose of concealing or withholding information as to said conveyance from the complainants; that the fact that she had said deed was known to others and was not in anywise a secret, and that her failure to record was purely a matter of inadvertence on her part and because she did not know or

BOOK 016 PAGE 76

feel that it was necessary that she should record it. She denies that the complainants have derived any right or title to said land through the Last Will and Testament of Nic Krump, deceased, but says and shows that said property was conveyed to her by the deed referred to, and the title had become vested in her long prior to the death of the said Nic Krump and at the time of his death, he did not own said property or any right or interest therein.

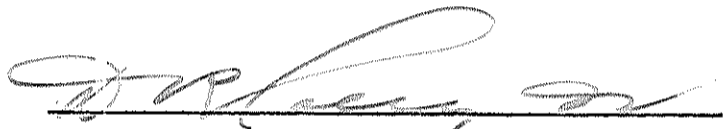
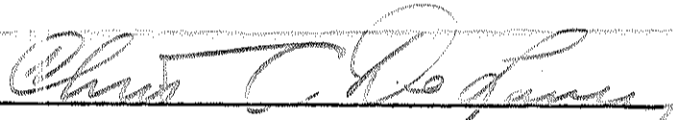
FOURTH: She denies that at the time of the execution and delivery of said deed to her on January 5, 1949, the said Nic Krump was of unsound mind, and that he was incapable of executing and delivering said document as a valid deed of conveyance of said lands, but says and shows that Nic Krump was of sound mind and fully capable of executing and delivering said document as a valid deed of conveyance; that prior thereto and for a long time thereafter, he continued to transact business and attend to his affairs as fully and capably as he had ever done in his life.

FIFTH: Answering paragraph 5 of the complaint, she says that the said Nic Krump did execute said deed of conveyance in his own person, and by his own hand, and acknowledged the execution thereof before Mr. Claude Peteet, a Notary Public of Foley, Alabama.

SIXTH: Answering paragraph 6 of the complaint as amended, she says that said deed was executed and delivered by Nic Krump in person, as hereinabove set forth.

Answering sub-paragraph 6 (a) as amended, she admits that the property described in paragraph 2 of the original bill of complaint was on January 5, 1946, and is now known as the Airport Property, but neither admits nor denies that it has a reasonable and fair market value of \$20,000.00. She admits that Nic Krump was a man above 73 years of age, but denies that he was of feeble health in body and mind, and denies that he was under the dominion and influence of

the respondent. She denies that she was the dominant party in said transaction, and denies that the execution of said alleged conveyance was the result and product of undue influence exercised by the respondent over the mind of the said Nic Krump, but says and shows that Nic Krump was at said time of sound mind and capable of understanding the acts and the consequences of his acts, and fully capable of transacting and attending to his own affairs; that at said time the said Nic Krump was of sound mind; that he was not feeble; that he was not under the dominion of anyone, and that the act of executing and delivering the conveyance to her was done by him freely and voluntarily and with a clear understanding of what he was doing, and that it was the exercise of his free volition.

Solicitors for the Respondent.

I certify that I have served a copy of the foregoing answer upon the complainants by mailing a copy to the firm of Johnston, McCall & Johnston, Mobile, Alabama, and Honorable John Chason, Bay Minette, Alabama, as Solicitors for the Complainants.

This the 21st day of May, 1954.



FILED

5-22-54

JOHN I. DUCK, Register

MATT KRUMP AND HERBERT
KRUMP,

COMPLAINANTS

VS.

MILBRED CASEY,

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY No. 2909

Now comes the Respondent, by her Solicitors, and shows the following unto this Honorable Court:

I

That on April 13, 1954, demurrers to the amended complaint in the above-styled cause were filed by the Solicitors for the Respondent, and as shown by the decree of this Honorable Court dated the 16th day of April, 1954, said demurrers of the Respondent to paragraph Six A. of the amended bill of complaint were sustained.

II

That on the 20th day of April, 1954, the Solicitors for the Complainants filed their amended bill of complaint, and on April 20, 1954, as shown by the bench notes of this Honorable Court, the Solicitors for the Respondent refiled their demurrers dated April 13, 1954, to said amended bill.

III

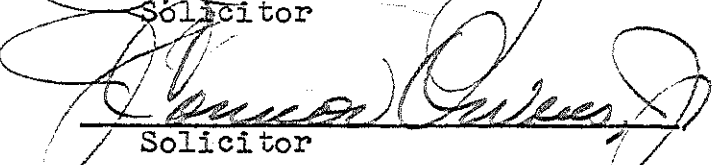
That on the 23rd day of April, 1954, this Honorable Court entered a decree overruling the demurrers filed April 20, 1954, to the amended complaint.

IV

That the Register of the Circuit Court of Baldwin County failed to make notations upon the demurrers showing that the same were refiled as of April 20th, 1954.

Whereupon, it is moved that this Honorable Court direct the Register of the Circuit Court of Baldwin County to mark the demurrers dated April 13, 1954, refiled as of April 20, 1954 in order to correct the record from the oversight or omission of said Register, pursuant to Rule 63 and Rule 65 of the Alabama Equity Rules.


Solicitor


Solicitor

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 2909

MATT KRUMP AND HERBERT
KRUMP,

COMPLAINANTS

VS.

MILDRED CASEY,

RESPONDENT

MOTION TO CORRECT RECORD

FILED

APR 19 1955

Alice J. Duck, Register

THE STATE OF ALABAMA -- JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1954-55

~~XXXXXXXXXXXXXXXX~~
October Term, 1955

To the REGISTER of the CIRCUIT Court,
BALDWIN County—Greeting:

Whereas, the Record and Proceedings of the CIRCUIT Court IN EQUITY
of said county, in a certain cause lately pending in said Court between
MILDRED CASEY, Appellant,

and

MATT KRUMP: HERBERT KRUMP, Appellee.

wherein by said Court it was considered adversely to said appellant, were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, adjudged, and de-
creed by our Supreme Court, on the 15th day of SEPTEMBER, 1955, that said
DECREE of said CIRCUIT Court be in all things
affirmed, and that it was further considered, ordered, adjudged, and decreed that the appellant,

~~XXXX~~ MILDRED CASEY,

and

CLAUDE PETEET, SURETY ON THE APPEAL BOND, PAY

the costs accruing on said appeal in this Court and in the Court below

It is further certified that, it appearing that said parties have waived their rights of exemption
under the laws of Alabama, it was ordered that execution issue accordingly.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 15 day of

SEPTEMBER, 1955

J. Render Thomas

Clerk of the Supreme Court of Alabama.

No. 2909

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1954-55

~~October Term, 19~~XXXXXXXXXXXX

1st Div., No. 628

MILDRED CASEY

Appellant,

vs.

MATT KRUMP: HERBERT KRUMP

Appellee. s

From BALDWIN CIRCUIT Court.
IN EQUITY

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

Baldwin County.

} Filed

this 14 day of Sept 1955

David J. Kline

BOOK 015 PAGE 72

MATT KRUMP and HERBERT KRUMP,	I	
Complainants,	I	IN THE CIRCUIT COURT OF
vs.	I	BALDWIN COUNTY, ALABAMA
MILDRED CASEY,	I	IN EQUITY NO. 2909
Respondent.	I	

Come the Complainants and amend the bill of complaint filed herein as follows:

1. By amending paragraph 6 thereof so that the same shall read as follows:

6. Should Complainants be mistaken as to the facts alleged in paragraphs 4 and 5 of the original bill, they charge in the alternative that if said instrument was in fact subscribed by the said Nic Krump, *there was never a delivery of said instrument by him or by any one authorized by him.* ~~it was never delivered by him to the said Mildred Casey.~~

2. By adding paragraphs 6 (a) and 6 (b) immediately following amended paragraph 6, reading respectively as follows:

6 (a) The real property described in paragraph 2 of the original bill, is now, and was on the 5th day of January, 1949, known as the "Airport Property", is used as an airport, and had on said date, and has now, a reasonable and fair market value of more than \$20,000.00; and, if Complainants are mistaken as to the facts alleged in paragraphs 4 and 5 of the original bill and in paragraph 6 as amended, they charge in the alternative that the execution of said instrument, a copy of which is attached to the original bill of complaint as Exhibit "A", was the result of undue influence exercised by the said Mildred Casey upon the said Nic Krump.

6 (b) Complainants further aver that there was no consideration for the purported conveyance of the lands described in paragraph 2 of the bill.

FILED

4-12-54

J. DUCK, Register

Houston, McCall & Houston
Charles Stone
Ray [unclear]
 Solicitors for Complainants.

LAW OFFICES OF
D. R. COLEY, JR.

302-6 FIRST FEDERAL SAVINGS BUILDING

106 ST. JOSEPH STREET

MOBILE, ALABAMA

SYDNEY S. PFLEGER
CHRIS C. DELANEY

May 21, 1954


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

Dear Mrs. Duck:

I hand you herewith the answer to be filed on behalf of the Respondent, Mildred Casey, in the matter of Krump vs. Casey.

I will appreciate it if you will attend to the filing for me. I have handed a copy of this to Mr. Sam Johnston and have mailed a copy to Mr. John Chason, as Solicitors for the Complainants.

Very truly yours,


D. R. Coley, Jr.

DRC:kc

CC: Hon. John Chason

MATT KRUMP AND HERBERT KRUMP,
Complainants,
VS.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

MILDRED CASEY,
Respondent.

IN EQUITY.
NO. 2909

This cause coming on to be heard is submitted for a final decree upon the motion filed by the Complainants to strike the demand for a jury filed by the Respondent.

The Court, after considering the matter, is of the opinion that the Complainants are entitled to the relief prayed for and that the motion to strike a demand for jury trial should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the demand for a jury trial filed by the Respondent be, and the same is hereby stricken.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that this cause be set down on the regular non-jury docket for trial.

Dated this 16th day of April, 1954.

J. Lewis M. Hae

Judge, 28th Judicial Circuit of Alabama.

MATT KRUMP AND HERBERT KRUMP,

Complainants,

VS.

MILDRED CASEY,

Respondent.

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

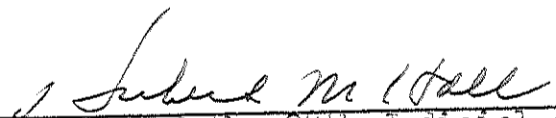
NO. 2909

This cause coming on to be heard is submitted for a decree on the demurrers to the Complainants' amended complaint, paragraph 6-A, as filed on April 20, 1954, and the Court, after considering the matter, is of the opinion that the demurrer is not well taken, and should be overruled

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Respondent's demurrer to the Complainants' amended Complaint, Paragraph 6-A, as filed on April 20, 1954, be and the same is hereby overruled.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respondent be and she is hereby allowed 20 days in which to file further pleadings.

Dated this 23rd day of April, 1954.


Judge of the 28th Judicial Circuit