BAY MINETTE PRODUCTION CREDIT (IN THE CIRCUIT COURT OF ASSOCIATION, a corporation,

COMPLAINANT

VS.

N.L. POSTON,

RESPONDENT

BALDWIN COUNTY, ALABAMA

IN EQUITY

4183

DECREE ON DEMURRERS

This cause coming on to be heard is submitted for decree upon the demurrer filed by the Complainant to the Respondent's Motion to Dismiss;

It is the opinion of the Court that said demurrer is well taken;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the said demurrer be and is hereby sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent be, and is hereby given, 20 days in which to file additional pleadings, if he sees fit.

This the 16th day of December, 1957.

Judge of the 28th Circuit of Alabama

ALICE J. DUCK, Register

BAY MINETTE PRODUCTION CREDIT ASSOCIATION, a corporation,

IN THE CIRCUIT COURT OF

COMPLAINANT

VS.

BALDWIN COUNTY, ALABAMA

N.L. POSTON.

RESPONDENT

IN EQUITY

No. 4183

MOTION TO STRIKE

I.

Now comes the complainant, by its attorney, and moves to strike the allegations of paragraph 2 of the respondent's answer and assigns as grounds separately and severally therefor, the following:

- 1. That said allegations of said paragraph are prolix.
- 2. That said allegations of said paragraph are irrelevant.
- 3. That said allegations of said paragraph are frivolous.

II.

Now comes the complainant and moves to strike the allegations of paragraph 3 of the respondent's answer and as grounds therefor assigns those grounds numbered 1 through 3, inclusive, which are set out above just as though the said grounds were set out specifically herein.

III.

Now comes the complainant and moves to strike the allegations of paragraph 4 of the respondent's answer and as grounds therefor assigns those grounds numbered 1 through 3, inclusive, which are set out above just as though the said grounds were set out specifically herein.

IV.

Now comes the complainant and moves to strike the allegations of paragraph 5 of the respondent's answer and as grounds therefor assigns those grounds numbered 1 through 3, inclusive, which are set out above just as though the said grounds were set out specifically herein.

Solicitor for Complainant

IN EQUITY NO. 4183

<u>张삼삼본</u>삼삼삼삼삼삼삼삼삼삼삼삼삼삼삼삼삼삼

MOTION TO STRIKE

JAN 17 1958

ALICE J. DUCK, Register

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are commanded to summons N.L. Poston, to appear and plead, answer or demur within thirty days of the service hereof, to the bill of complaint, filed in the Circuit Court of
Baldwin County, Alabama, in Equity, by Bay Minette Production
Credit Association, a corporation, as Complainant and against
N.L. Poston as Respondent.

WITNESS my hand this the _______ day of December, 1957.

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Alice Anche

BAY MINETTE PRODUCTION CREDIT

ASSOCIATION, a corporation

COMPLAINANT

VS.

N.L. POSTON

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NC.

TO THE HONORABLE H.M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Your Complainant, Bay Minette Production Credit Association, a corporation, respectfully represents and shows unto Your Honor and this Honorable Court as follows:

I

That your Complainant is a corporation organized pursuant to the Farm Credit Act of 1933; with its principal place of business at Bay Minette, Alabama; that the Respondent is over the age of 21 years and is a bonafide resident of Baldwin County, Alabama.

TT

That on September 5, 1956, the Respondent executed a certain promissory note in the sum of \$1,900.00 with interest at the rate of 6% per annum, payable to the Complainant in

installments of \$40.00 per month, the first installment being due on October 20, 1956, and a similar payment on same date of each succeeding month until September 20, 1957, when balance of note was due; that a copy of said note is attached hereto and labeled Exhibit "A" and made a part of this complaint as if the same had been written herein. That said note was secured by a chattel mortgage of the same date, a copy of said mortgage being attached hereto and labeled Exhibit "B" and made a part of this complaint as if the same had been written herein.

III

That by the terms of Exhibit "B" the Respondent did grant, bargain, sell, and convey and warrant unto the Complainant the following described personal property situated in Baldwin County, Alabama, to-wit:

ALL OF MY CATTLE, HORSES, MULES, AND OTHER LIVESTOCK, whether or not branded or marked, consisting at this time of:

No. Kind or Class Breed Age Sex Brand or Earmark

7 Mixed Grade Mixed Underloyr.Cows None

3 Mixed Grade Mixed Under lyr.SteersNone

Mixed Grade Mixed Under lyr.SteersNone
CIC Brood sows, Cne(1) Duroc Boar, 20 mixed grade shoats.
Also one new 1956 Ford & ton pickup truck Motor
Number #F10V6U-46876

All of my farming tools, implements, and machinery of every description and kind, including, but not limited to all trucks, tractors, tractor equipment, combines, cotton pickers, and other heavy equipment.

All feed and all feeding, pasturing, watering, keeping, handling, dairying and marketing privileges, appliances and equipment now or hereafter owned or used in connection with said livestock.

Intending to convey and, hereby, conveying, to Mortgagee, all of the above property, and also, all of the property of like kind or class now in my possession or owned by me, at any time until this mortgage is extinguished, located on or used in connection with the said lands whether described or not, and, also, all increase thereof and additions thereto by purchase or otherwise within eighteen months after the date hereof.

IV

That there has been paid to the Complainant the sum of \$490.00, leaving a balance due upon said note in the amount of \$1,410.00 with interest thereupon; that your Complainant has demanded said principal sum with interest thereon, but the

Respondent has failed and refused to make payment of the same.

V

That in and by the terms of said mortgage, the Respondent agreed to pay a reasonable attorney's fee should such be incurred, and Complainant alleges that the sum of \$225.00 as a reasonable attorney's fee in the premises.

PRAYER FOR PROCESS

WHEREOF, the premises considered, your Complainant prays that this Honorable Court will by proper process make the said N.L. Poston party Respondent to this cause of action, requiring him to plead, answer, or demur to the same within the time and under the penalty prescribed by law and the practice of this Honorable Court.

PRAYER FOR RELIEF

Your Complainant further prays that upon the hearing hereof, Your Honor will enter an order and decree ascertaining the amount of the principal indebtedness of the Respondent to the Complainant and the interest thereon; that Your Honor will enter a decree and order foreclosing the mortgage and directing a sale of the personal property covered by the said mortgage; further that this Honorable Court will enter an order providing for a reasonable attorney's fee in the premises and should the proceeds of the sale of the personal property of the Respondent be insufficient to cover the whole amount of the indebtedness, that this Honorable Court enter an order providing for the payment of said deficiency. Your Complainant further prays for such other, different or general relief as your Complainant may be in equity and good conscience entitled to receive.

SOLICITOR FOR COMPLAINANT

INSTALLMENT NOTE

	11 11				
1900.00 S S S	8		September	_5	19_56_
For value received, I, we or either	of us promise t	o pay to the o	rder of the	BAY MINETT	IF.
PRODUCTION CREDIT ASSOCIATION	of BAY MI	NETTE	· · · · · · · · · · · · · · · · · · ·	ALABAMA, t	he sum of
NINETEEN HUNDRED & NO/100			Doll:	ars (\$ 1900.	00)
with interest at the rate of 6 %	No. 1				
of BAY MINETIE , Alaba	ma, in installme	nts as follows,	to-wit:		
2003 400	1 1975	\$ <u>40.00</u> _		il 20	19_57
40.00 on November 20	19.56 :	<u> </u>	on <u>Ma</u> j	, 20	19 _57
140.00 on December 20	19_56:	\$_40.00	onJur	re_20	1957
\$ 40.00 on January 20	19.57	\$ 40 . 00	on Ju	y 20	1957
40.00 on February 20	19.57	\$ <u>40.00</u> _	on_Auc	rust 20	19_57
40.00 on March 20	19.57	1460.00	on Ser	tember 20	1957
		:		:	
Upon the failure to pay any of the	said installment	ts, or interest	thereon when	the same bec	omes due,
then the entire indebtedness, at the optio The makers, sureties, endorsers a			the contract the same		tment for
payment, notice of nonpayment, protest	and notice of	protest, and d	iligence in th	e enforcing of	f payment
hereof and all right of exemption under property, and consent that time of payme					
this note. It is further expressly agreed	that if this note	e, after the m	aturity of any	v of the insta	llments or
payments, above referred to is placed in on the same or not, then and in that eve	ent to pay the	owner or holde	er of this note	e ten per cent	additional
of the principal and interest due thereor	as attorney's	fees for collec	tion. This no	ote is secured	by chattel
mortgage dated <u>September 5, 195</u>	6; exe	cuted by the r	nakers hereof	to the payee	herein on
property more particularly described in sa	aid mortgage.				
No. 39	500 I	(signed) N.L.	Poston	
Due					
Address	01.0	To long	710		<u> </u>
	Extul	18 OT	· · · · · · · · · · · · · · · · · · ·		•

CROP, LIVESTOCK AND DAIRY MORTGAGE

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	ortgagee, in the sum ced by one promisso								• • •	/
e eviden	45.1	due Oct	20 1956		10.0			nr.	20	1957
\$	31 0 00	due Nov	20 1956	ś ś	<u> </u>	്	_dueM	277	20,	1957
\$	41.000	due Dec_	20 1956	5	<u>lio</u>	20	_dueJ	une.	20,	1957
\$	\$10.00	due Jan	20,1957	\$	<u> </u>	00	_due	uly	20,	1957
\$	<u>\$1,0.00</u>	due Feb.	20, 195	7 \$		00	_dueA	ug.	20,	1957
\$	\$40.00	due Mar.	20, 195	7\$	_1/ <u>1</u> 60_	00	_dueS	lept.	_20,	1957
Notes an cent per attorney's IN C PAYMEN MONTH MENT (bargain, (1) cultural phim or i also duri immediat	MAY BECOME FUE ; said d all indebtedness ow annum and to which fee, payment of all ONSIDERATION of NT OF SAID NOTE SAFTER THE DATE OF WHICH IS HER sell, convey and was a convey and was not to be which he may have the part, if any, tely preceding the firs RM, containing 50	ving and to be a amounts, as of which shall the premises S AND IND. TE HEREOF REBY SECUR Trant unto MCRYKIND include grown, playe any interestremaining after the day of said	and One Doll EBTEDNESS BY MORTGA ED and the ortgagee or a dding, but not anted and gro it in Bal er the date of year, and pa	hereunder to e indebtedness hereby: lar, receipt w NOW OWI. GOR TO Mo performance assigns limited to cottown, planted, dwin this Mortgagarticularly upon	bear interess, shall be hereof is hong AND DRTGAGEE of all the of the peants of the peant to be planted on that cert	t from date added, if incereby acknow TO BECOM ALL bligations here, potatoes, bed, or produce County, Alabriod from Sejain tract of	wledged, a wledged, a E OWIN OTHER reof, Mor eans, tung d by Mor ama, duri otember 1 land in s	AND TO WIT INDE transport to Deciaid Co	rate of able con ro SE THIN BTED does he and all and by year 1 cember bunty, con the able of the second reconstruction reconstruct	per ollection and CURE THE EIGHTEEN NESS PAY- lereby grant, other agri- y anyone for 19 57, and 31, inclusive, lescribed as:
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(3) ALL OF MY FARMING TOOLS, IMPLEMENTS, and MACHINERY of every description and kind, including, BUT NOT LIMITED to ALL TRUCKS, TRACTORS, TRACTOR EQUIPMENT, COMBINES, COTTON PICKERS, AND OTHER HEAVY EQUIPMENT;

(4) ALL FEED AND ALL FEEDING, PASTURING, WATERING, KEEPING, HANDLING, DAIRYING AND MARKETING PRIVILEGES, APPLIANCES AND EQUIPMENT NOW OR HEREAFTER OWNED OR USED IN CONNECTION WITH SAID LIVESTOCK.

Mortgagor ASSIGNS to Mortgagee all LIENS he has or may acquire on all TENANT'S CROPS and CHATTELS for and during said year and period of time:

Intending to convey and, hereby, **CONVEYING**, to Mortgagee, all of the above property, and, also, ALL OF THE PROPERTY OF LIKE KIND OR CLASS NOW IN MY POSSESSION OR OWNED BY ME, AT ANY TIME UNTIL THIS MORTGAGE IS EXTINGUISHED, LOCATED ON OR USED IN CONNECTION WITH THE SAID LANDS WHETHER DESCRIBED OR NOT, and, also, ALL INCREASE THEREOF AND ADDITIONS THERETO BY PURCHASE OR OTHERWISE WITHIN EIGHTEEN MONTHS AFTER THE DATE HEREOF.

Exhibit B

Upon failure of payment of any of said installments, or interest thereon, or any other indebtedness secured hereby, when due, then the entire indebtedness secured hereby, at the option of the holder of said note may be declared due.

MORTGAGOR Agrees:

Not to sell or further encumber the property here conveyed except on written consent of Mortgagee or assigns:

Mortgagee or assigns may inspect said property at will and may possess same as herein provided and may go upon any property of Mortgagor in so doing:

If in the opinion of Mortgagee or assigns the security herein be endangered or if Mortgagee or assigns shall feel itself insecure or if Mortgagor shall fail to comply with any of the terms of his Application for any part of the indebtedness here secured or with the applicable laws of Alabama, Mortgagee or assigns may refuse to advance any part of the said indebtedness then in its possession and may mature the then existing indebtedness and proceed with foreclosure as herein provided, or may take possession of said security, retain and use same and therewith cultivate, harvest, and sell said Crops, and payment of all expense incident thereto shall be secured hereby.

PROVIDED THAT IF MORTGAGOR SHALL PAY ALL SUMS HERE SECURED INCLUDING THE INDEBTEDNESS NOW OWING AND THAT TO BECOME OWING WITHIN EIGHTEEN MONTHS AFTER THE DATE HEREOF ON OR BEFORE MATURITY THIS MORTGAGE SHALL BE VOID: however:

In the event of default in the payment of any sum hereby secured when due or in the performance of any condition or agreement herein contained then the entire amount hereby secured and unpaid including interest, expense, cost and attorney's fees shall at the option of Mortgagee or assigns become immediately due and Mortgagee or assigns may possess said security and sell same at either private or public sale and if at public sale then by auction for cash after giving not less than three days' notice thereof by posting one notice in Courthouse of said County; proceeds of any sale shall be applied to payment of all sums here secured including all costs incident to such sale and any surplus shall be paid to Mortgagor or assigns. Mortgagee or assigns may become the purchaser of said property at either private or public sale provided for herein.

Witness the har	nd and seal o	f said Mortg	gagor on this	5th	day of	Sept.	
WITNESSES:				1.2			
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STATE OF ALABA Baldwin		COUNTY			- 1000	v	
I. F. N	J. Snowde	n				, а	Notary Public in and for said
County, in said Stat	te, do hereby	certify that	N. L.	Poston			
whose name is	signed to	the foregoing the contents	of this con	veyance, <u>r</u>	1e	executed the sa	acknowledged before me on me voluntarily on the day the
Given under my	hand this	5	_day of	Septe	mber	, 19	<u>56.</u>
ing the second					F. N	. Snowden	
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Baldwin		_County.		WD0-0-	2222	\$ 1.700	the state of the s
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of Mortgages, Page	308-9.		en e	TaT .	R. Stu	ant:	
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ROP AND CHATTE MORTGAGE	From	**************************************					

BAY MINETTE PRODUCTION CREDIT ASSOCIATION, a corporation,

COMPLAINANT,

VS.

N.L. POSTON.

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 4183

DEMURRER

I.

Now comes the complainant, by its attorney, and demurs to the allegations of paragraph 2 of the respondent's answer and assigns as grounds separately and severally therefor, the following:

- 1. Said paragraph does not allege a tender of the indebtedness due under the pleadings.
- 2. Said paragraph does not allege that the amount due was liquidated.
- 3. Said paragraph does not allege that a tender of amount due under said note was made.
- 4. Said paragraph does not allege that a payment of the money or sums due under said note has accompanied the pleadings filed in this cause.
- 5. Said paragraph does not allege that the respondent has delivered the money due under said note to the register of this Honorable Court.

II.

Now comes the complainant, and demurs to the allegations of paragraph 5 of the respondent's answer and as grounds therefor assigns those grounds numbered 1 through 5, inclusive, which are set out above just as though the said grounds were set out specifically herein.

Solicitor for Complainant

IN EQUITY NO. 4183

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DEMURRER *************

> FILED JAN X7 1958

ALICE J. DUCK, Register

Answer

Bay Minette, Production Credit Association, a Corporation

Complainant

٧s

N. L. Poston

Respondent

In the Circuit Court of Baldwin County, Alabama In Equity. No. 4183

Now comes the Respondent in the above styled cause and for answer to the Complaint in said cause says;

He admits the allegations in paragraphs 1,2, and 3 of said complaint, but denies the allegations in the balance of the complaint and demands strict proof thereof;

The Respondent, N. L. Poston, by his Attorney, Reuben F. McKinley, offered to pay said note and mortgage, subject of this suit, in full, on to wit November 25, 1957, in the presence of the Respondent and Morgan Durant. Said offer was made to Mr. Taylor, an officer of said association, which offerwas refused by Mr. Taylor, in a rude and insulting manner.

Before said note and mortgage were due, the Respondent secured permission from Mr. Marney Snowden, another officer of said association, to wait until the last part of October or about the first part of November, 1957, to sell some livestock and pay said note and mortgage. In reliance upon this promise that it would be all right to be a little late in payment, Your Respondent waited until about the middle of November, 1957 to pay said note and mortgage. About this time, the Complainant turned the matter over to J. Connor Owens, Attorney.

Your Respondent received one letter from J. Connor Owens, stating that payment was past due on said note and mortgage. Your Respondent, acting through his Attorney, Reuben F. McKinley, offered to pay said note and mortgage and to pay J. Cennor Owens twenty five dollars additional as Attorneys fee. This was refused by J. Connor Owens, stating that he had to have \$100.00 as his Attorneys fee or he was going to bring suit to foreclose said mortgage.

Your Respondent offers to pay the amount of the note and mortgage, plus interest, into court, to pay said note and mortgage. The Respondent has had to hire an Attorney to defend this suit, and he feels that this should not have been necessary, in view of his agreement with Mr. Farney Snowden. He feels that he should not have to pay J. Connor Owens anything, as he had permission to be late in payment of said note and mortgage, but that he will pay the additional sum of \$25.00 into court as Attorneys fee for J. Connor Owens, if this Honorable Court deems it right and just and the Respondent offers to do any further Equity that this Honorable Court may require of him.

Wherefore, the premises considered, your Respondent moves this

Wherefore, the premises considered, your Respondent moves this Honorable Court to dismiss this suit against him and assess the Complainant with the costs of this suit. He also prays that interest on the above note and mortgage be terminated as of November 25, 1957 when said offer of payment was made and for such other, further, different or general relief as he may be entitled to in the premises

olicitor for the Respondent

Bay Minette Production Credit Association, a Corporation Complainant

N. L. Poston

100

Respondent

ALICE J. DUCK, Clerko

BAY MINETTE PRODUCTION CREDIT | IN THE CIRCUIT COURT OF ASSOCIATION, a corporation,

COMPLAINANT

VS.

BALDWIN COUNTY, ALABAMA

N.L. POSTON,

RESPONDENT

IN EQUITY

No. 4183

DEMURRER

Comes now the Complainant, by his attorney, and demurs to the motion to dismiss and as grounds therefor, assigns the following separately and severally:

l. Said motion neither traverses nor denies nor confesses nor avoids the allegations of the complaint.

J. Connor Owens, Jr. Attorney for Complainant

FILED DEC 1957

Motion to Dismiss

Bay Minette Production Credit Association, a Corporation

Complainant

Vs

N. L. Poston

Respondent

In the Circuit Court of Baldwin County, Alabama In Equity, No. 4183

Now comes the Respondent in the above styled cause and moves this Honorable Court to dismiss this suit and discharge the Respondent from liability herein and for grounds assigns;

The Respondent, N. L. Poston, by his Attorney, Reuben F. McKinley, offered to pay said note and mortgage, subject of this suit, in fully on to wit, November 25, 1957, in the presence of the Respondent and Morgan Durant. Said offer was made to Mr. Taylor, an officer of said Association, which offer was refused by Mr. Taylor, in a rude and insulting manner.

2.

Before said note and mortgage were due, the Respondent secured permission from Mr. Farney Snowden, another officer of said Association, to wait until the last part of October or about the first part of November, 1957, to sell some livestock and pay said note and mortgage. In reliance upon this promise that it would be all right to be a little late in payment, your Respondent waited until about the middle of November, 1957 to pay said mortgage. About this time, the Complainant turned the matter over to J. Connor Owens, Attorney.

3.

Your Respondent received one letter from J. Connor Owens, stating that payment was past due on said note and mortgage. Your Respondent, acting through his Attorney, Reuben F. McKinley, offered to pay said note and mortgage and to pay J. Connor Owens twenty five dollars additional as Attorneys fee. This was refused by J. Connor Owens, stating that he had to have \$100.00 as his Attorneys fee, or he was going to bring suit to foreclose said mortgage.

4.

Your Respondent offers to pay the amount of the note and mortgage, plus interest, into court, to pay said note and mortgage. The Respondent has had to hire an Attorney to defend this suit, and he feels that this should not have been necessary, in view of his agreement with Mr. Farney Snowden. He feels that he should not have to pay J. Connor Owens anything, as he had permission to be late in payment of said note and mortgage, but that he will pay the additional sum of \$25.00 into court as Attorneys fee for J. Connor Owens, if this Honorable Court deems it right and just and the Respondent offers to do any further Equity that this Honorable Court may require of him.

Wherefore, the premises considered, your Respondent moves this Honorable Court to dismiss this suit against him and assess the Complainant with the costs of the suit.

Solicitor for the Respondent

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Bay Minette Production Credito Association, a Corporation

Complainant 3 4 4 9 9 4 4 1 9

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