

WALTER J. PORTER,
COMPLAINANT,
VS
JAMES EDWARD BYRD,
RESPONDENT,

IN THE
CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA, IN EQUITY
NO. 3393

This cause coming on to be heard is submitted for a final decree upon the original bill of complaint of the Complainant, Walter J. Porter, answer and cross bill of the Respondent, James Edward Byrd, answer to the cross bill by the Complainant, and testimony of witnesses taken ore tenus.

The Court, after considering all the pleadings, and hearing and considering the testimony of the witnesses, is of the opinion and finds as follows:

1: That the respondent executed and delivered to the Complainant a note and chattel mortgage covering the property involved, to-wit:

One 1950 Chevrolet 2 door, Motor No. HAA304013, Tag No. 5 6275.

2: That the Complainant was within his right in re-possessing the property hereinabove described.

3: That the Respondent is entitled to relief as to certain personal propwrty taken by the Complainant, and that the value thereof is Seventy-five dollars.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT, that the Respondent gave and recover of the Complainant, seventy-five dollars.

It is furthwr ordered, adjudged and decreed by the Court that the costs herein accrued be taxed against the Complainant, Walter J. Porter, for which execution may issue.

Done this 3rd day of November, 1954.

J. Hubert M. Zelle
Judge.

WALTER J. PORTER,
COMPLAINANT,
VS
JAMES EDWARD BYRD,
RESPONDENT,

IN THE
CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA, IN EQUITY
NO. 3393

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IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT, that the Respondent give and recover of the Complainant, seventy-five dollars.

It is further ordered, adjudged and decreed by the Court that the costs herein accrued be taxed against the Complainant, Walter J. Porter, for which execution may issue.

Done this 3rd day of November, 1954.

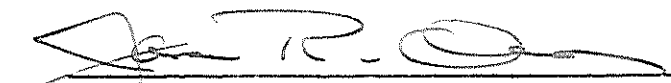
Hubert M Hill
Judge.

WALTER J. PORTER,
Complainant,
VS.
JAME EDWARD BYRD,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Now comes the Complainant in the above styled cause and
for answer to the Cross Bill heretofore filed in this cause and says:

He denies the allegations of each and every paragraph
thereof and demands strict proof thereof.


Solicitor for Complainant

WALTER J. PORTER,
Complainant,
VS.
JAMES EDWARD BYRD,
Respondent.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Your Complainant, Walter J. Porter respectfully represents and shows unto the Court and your Honor as follows:

1. That he is over age of 21 years and a resident of Baldwin County, Alabama. The Respondent is over the age of 21 years and a resident of Baldwin County, Alabama.

2. That on, to-wit, March 6, 1954, the Complainant and the Respondent entered into an agreement whereby the Complainant was to sell and the Respondent to purchase one 1950 Chevrolet, 2 door, motor number HAA 304913. The terms of the said agreement were that the Respondent was to pay the Complainant the sum of \$765.00 for the said automobile, \$315.00 of which was allowed the Respondent on one 1946 Chevrolet, 4 door, and the balance of said purchase price, "\$450.00" was to be paid to the Complainant at the rate of \$25.00 each two weeks beginning March 20, 1954.

3. It was further agreed between the Respondent and the Complainant that the Respondent would execute a chattel mortgage and note to the Complainant to secure the payment of the balance due the Complainant, "\$450.00" on the said automobile. In conformance with the said agreement the Respondent, James Edward Byrd, joined by his wife, Mamie L. Byrd, executed and delivered to the Complainant, Walter J. Porter, an instrument in writing which was intended by both the Respondent and Complainant to be a chattel mortgage and note on the said automobile. The Complainant alleges that both the Respondent and Complainant are unlearned in the law and that through this lack of knowledge the said written instrument was not properly completed, although it was understood and agreed between the parties thereto that the said written instrument constituted a valid mortgage on the said automobile.

4. The Complainant alleges that the written instrument referred to herein is an equitable mortgage on the said automobile mentioned therein and that under the terms thereof he is entitled to the possession of the said automobile due to the fact that the Respondent is delinquent in his payments thereunder.

PRAYER FOR PROCESS

Your Complainant prays that James Edward Byrd be made a party respondent to this Bill of Complaint and be brought into Court by the usual and proper process.

PRAYER FOR RELIEF

The premises considered, the Complainant prays that this Court take jurisdiction of this cause and that upon the final hearing hereof that the said chattel mortgage and note referred to herein be reformed so as to comply with the intent of the parties thereto; that the said complainant be adjudged to be entitled to the possession of said automobile and that this Court grant such other, further and general relief as he may be equitable entitled to, the premises considered.

FILED

10-30-54

ALICE I. DUCK, Clerk



Solicitor for Complainant

3393

BILL OF COMPLAINT

WALTER J. PORTER,
Complainant,
VS.
JAMES EDWARD BYRD,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

FILED
OCT 30 1954
ALICE J. ROCK, Register

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DECREE

JAMES EDWARD BYRD,

Plaintiff,

VS.

WALTER J. PORTER,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

WALTER J. PORTER,	↓	
	↓	IN THE CIRCUIT COURT OF
COMPLAINANT,	↓	BALDWIN COUNTY, ALABAMA
	↓	IN EQUITY
VS	↓	
JAMES EDWARD EYRD,	↓	
	↓	
RESPONDENT.	↓	

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

Comes the Respondent, James Edward Eyrd, and for answer to said bill of complaint filed in said cause shows unto this Honorable Court as follows:

1.

As to Count One of said complaint; he admits the allegations thereof.

2.

As to Count Two of said Complaint; he denies the allegations thereof.

3.

As to Count Three of said complaint he denies the allegations thereof.

4.

As to Count Four of said Complaint he denies the allegations thereof.

And now having answered said complaint your Respondent and Cross-Complainant does by this Cross-Complaint shows unto this Honorable Court as follows:

1.

That on, to-wit, March 9, 1954, the Respondent entered into an agreement to purchase from the said Complainant herein one 1950 Chevrolet, 2 door Sedan, Motor No. HHA304013 for the full sum of Seven Hundred Sixty Five (\$765.00) Dollars; that your Respondent traded in one 1946, 4 door Chevrolet Motor No. AFCAY31391. at a value of Three Hundred Fifteen (\$315.00) Dollars, and agreed to pay the unpaid balance of Four Hundred Fifty (\$450.00) Dollars, in 12 payments, the first payment on same being due April 3, 1954, and that said parties to this cause did on March 9, 1954, enter into an agreement in writing, which the complainant hereto signed and delivered in the form of a bill of sale, which bill of sale is set out hereto and made a part hereof, said bill of sale being delivered to your Respondent along with said automobile: (continued).

2.

That as averred in the preceding count your Respondent entered into an agreement to purchase for the sum of Seven Hundred Sixty Five (\$765.00) Dollars,

No. One of Cross-Bill Continued

March 9, 1954

As a bill of Sale, From W. J. Porter to James Edward Byrd.
One 1950 Chevrolet 2 dr, Motor No. NHA304013, License 5-6275,
Full price, \$765.00 tuck in as down payment 16 Chev 2 dr
Motor No. AFCA731351. License 4-5-830 Bal to be paid at
Baldwin County Bank \$450.00 plus interest, divided in 12
payments, First payment beginning April 3, 54.

and delivered a 1946 Chevrolet, 4 door automobile as averred therein of an agreed value of Three Hundred Fifteen (\$315.00) Dollars and together with your Respondent's wife, Mamie L. Byrd, executed a chattel mortgage and note in blank to be completed in accordance with the terms set forth in the bill of sale executed by the said complainant herein which reads as follows:

March 9, 1954

As a bill of Sale, From W. J. Porter to James Edward Eyrd.
~~One 1950 Chev. 2dr, Motor No. HHA304013, License 5-6275,~~
Full price, \$765.00 back in as down payment 46 Chev 4 dr
Motor No. APCA731351. License 5-5-830 Bal to be paid at
Baldwin County Bank \$150.00 plus entress, divided in 12
payments, First paymint beginning April 3, 54

(Signed) W. J. Porter

3.

That the said Respondent hereto made his payments regularly in accordance with said bill of sale.

4.

That during the month of May, 1954, the complainant herein brought an action of detinue in the Justice Court of T. C. Hand, Eay Minette, Alabama, for the automobile and that the said Writ of Detinue was dismissed in said Justice Court.

5.

That on, to-wit, May 25, 1954, subsequent to the action in Justice Court the said Complainant herein went to a point near the Trailway Service Station in Eay Minette and took and carried away one 1950 Chevrolet, 2 door Sedan, Motor No. HHA304013, property of the Respondent, of the value of Seven Hundred Sixty-five (\$765.00) Dollars, while the payments for said automobile were not in arrears.

6.

That on, to-wit, the 25th day of May, 1954, the Complainant herein ~~wrongfully converted to his own use one 1950 Chevrolet, 2 door sedan, Motor No. HHA304013, property of the Respondent herein to the Respondent's damage in the amount of One Thousand (\$1000.00) Dollars.~~

7.

That the Respondent claimed of the Complainant herein the sum of Three Hundred Sixty-Nine (\$369.00) Dollars damages for the wrongfully taking on, to-wit, May 25, 1954, the following goods and chattels, property of the Respondent herein, to-wit:

- | | |
|----------------|--------------------------------|
| Rod and Reel | Electric Drill Motor |
| Small Tools | Jack, Tire Wrench & Lug Wrench |
| Ladies Sweater | |

Lady's Coat
Carton of Cigarettes
Little Boy's Jacket
Small Seat Cushion

Lady's Hat
Study Board
Fishing Equipment
Insurance Policy

BOOK 016 PAGE 19

8.

That the said Complainant herein did not fill out the chattel mortgage and note as provided in the bill of sale as agreed to between the parties but on the contrary changed the terms of the sale contract between the parties as shown in the said chattel-mortgage, wherefore your Respondent denies liability under said note and chattel mortgage.

9.

Your Respondent herein shows further unto this Honorable Court that there was no consideration for the execution of said chattel mortgage dated March 6, 1954, as there had been no exchange of vehicles on that date nor any bill of sale issued on that date, as alleged in said chattel mortgage nor was there any transaction between the parties to this cause on that date.

STATE OF ALABAMA
BALDWIN COUNTY

James Edward Eyrd
Attorney for Respondent

Before me, the undersigned authority, personally appeared James Edward Eyrd, who being duly sworn deposes and says that the facts set forth in the foregoing cross-bill from Count 1 to Count 9 are true and correct.

James Edward Eyrd

Sworn to and subscribed before me on this

the 1st day of November, 1954.

Notary Public, Baldwin County, Alabama.

FILED

11-3-54

ALICE J. DUCK, Clerk

3393

WALTER J. PORTER
COMPLAINANT
VS
JAMES EDWARD LYRD
RESPONDENT



FILED
NOV 3 1954
WALTER J. PORTER, Complainant

From the law offices of
C. LeNoir Thompson
May Ninette, Alabama