

The State of Alabama }
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon C.M.Nelson who is also known as
Charles M.Nelson,

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

Agnes B.Lott,

against said

C.M.Nelson who is also known as Charles M.Nelson,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 26th day of June,

192 5.

T.W. Richerson
Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

112 Original
serve on
Circuit Court of Baldwin County
In Equity
RECORDED
No.
SUMMONS
Agnes B. Lott.
vs.
C. M. Nelson who is also known
as Charles M. Nelson.
RECORDED
Hamilton & Moorner.
Attorney for Complainant.

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this 26th
day of June 1925
T. W. Richardson
Sheriff.

Executed this 27th day of
June 1925
by leaving a copy of the within summons with
C. M. Nelson who is
also Charles M. Nelson
Defendant.

A. R. Stuart
Sheriff.

By B. O. Wiggins
Deputy Sheriff.

AGNES B. LOTT,
Complainant,

-VS-

C. M. NELSON, also known as
CHARLES M. NELSON.
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

No. _____

Comes the defendant in the above styled cause and demurs further to the bill of complaint exhibited against him on the following several and separate additional grounds.

15. It appears from the facts alleged that the written offer or option made or given by the defendant, of which "exhibit A" to the bill of complaint is a copy, does not comply with the Statute of Frauds in that it does not express the consideration, if any, for which it was made or given.

16. It appears from the facts alleged that the offer or option of which "exhibit A" to the bill of complaint is a copy is obnoxious to the Statute of Frauds and not binding on the defendant.

17. It appears from the facts alleged that the written offer or option made or given by the defendant, does not express the consideration for which it was made or given and is, therefore, not binding on the defendant.

18. No sufficient facts are alleged to show that there was any consideration for the offer or option alleged to have been made or given by the defendant to the said Frank B. Nihart.

19. It appears from the facts alleged that there was no consideration for the offer or option alleged to have been made or given by the defendant to the said Frank B. Nihart.

20. It appears from the facts alleged that the offer or option made or given by the defendant to the said Frank B. Nihart is nudum pactum and not binding on the defendant.

21. No sufficient facts are alleged to show any con-

tract mutually binding on the complainant and the defendant.

Smiths, Young, Leach & Johnston
Solicitors for Defendant.

Agnes B. Lott,
Complainant,
vs.
C. M. Nelson,
Respondent.

No. 510 - IN EQUITY.
IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA.

WHEREAS, at the time of the filing of the bill of complaint in this cause, which bill of complaint prayed for a decree requiring the defendant to execute to the plaintiff a conveyance of the property described in the bill of complaint, a deposit of \$2,500.00, which is the amount admitted by the complainant to be due in the event it is decreed that she is entitled to such deed, was deposited in the registry of this Court; and,

WHEREAS, the leaving of such deposit in Court is of no benefit to either of the parties to this cause and it will probably be some time before the said cause is finally disposed of; and,

WHEREAS, it has been agreed between the parties hereto that the said \$2,500.00 shall be withdrawn by the complainant from the registry of this Court in such manner as not to affect the rights of the parties to said cause, and that such withdrawal shall be so handled that the bill of complaint shall be treated as averring that the tender of the said \$2,500.00 was properly made, prior to the filing of the bill of complaint, and as averring a readiness, ability and willingness on the part of the complainant to pay the said \$2,500.00 upon delivery of the deed referred to in said bill of complaint in the event it is decreed she is entitled to such deed, and without an averment of the deposit of said \$2,500.00 in the registry of this Court:

NOW, THEREFORE, it is hereby agreed between the parties to the above styled cause through their solicitors of record that the complainant, Agnes B. Lott, be, and she hereby is, authorized to withdraw from the registry of this Court the \$2,500.00 heretofore deposited in the registry of this Court upon the filing of the bill of complaint in this cause.

It is further agreed between the parties hereto that the withdrawal of such \$2,500.00 shall in no manner affect the rights of the parties hereto, except that the case shall be so

handled that the bill of complaint shall be treated as averring that the tender of the said \$2,500.00 was properly made, prior to the filing of the bill of complaint, and as averring a readiness, ability, and willingness on the part of the complainant to pay the said \$2,500.00 upon delivery of the deed prayed for in said bill of complaint, and without an averment of the deposit of said \$2,500.00 in the registry of this Court.

It is further agreed that in the event the complainant should ultimately win this case that during the time that the said \$2,500.00 has been lying idle in the registry of this Court, no interest shall be taxable against the complainant, and that in event the complainant should ultimately win this case that then interest will be due by said complainant on the said \$2,500.00 from the date of its withdrawal from the registry of the Court.

Executed in triplicate this 9th day of March, 1928.

Henry L. Brown

Attorneys for Complainant
Solicitors for Complainant.

Robert L. Brown

Charles E. Langer
Solicitors for Respondent.

STATE OF ALABAMA,
BALDWIN COUNTY.

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

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT,
BALDWIN COUNTY, ALABAMA, - - - - - IN EQUITY.

Your petitioner, Agnes B. Lott, humbly complaining
respectfully represents and shows unto Your Honor as follows:-

FIRST:-

That she is over the age of twenty one years and a
BONA FIDE RESIDENT CITIZEN OF Mobile County, Alabama, residing in
Mobile.

That C. M. Nelson, who is also known as Charles M.
Nelson, is over the age of twenty one years and a bona fide resident
citizen of Baldwin County, State of Alabama, residing at Barnwell
in said County and State.

SECOND:-

That on to-wit:- May 24th., 1925, C. M. Nelson was
owner and in possession of the following described real estate, to-wit:-

All of Lot Numbered Nine (9) of Subdivision
of the Nicholas Cook Grant, Sections Thirty-
eight (38) and four (4) in Township Seven (7)
and Eight (8) South, Range Two east, according
to a survey and plat thereof, made by N. L.
Durant, County Surveyor, September 15th., 1899
and recorded in Book Number Two, New Series,
Pages 646 and 647 of the records of Baldwin
County, Alabama, being the same property con-
veyed to Charles M. Nelson, by Emma B. Partridge by
deed dated December 24th., 1924 and recorded in
Deed Book 35 NS. page 389 of said Baldwin County
records and located in Baldwin County, Alabama.

That on May 24th., 1925, the said C. M. Nelson gave to
Frank B. Nihart of Bay Minette, Alabama, an option on the land hereinabove
described a copy of which is hereto attached and marked Exhibit "A" and made
a part of this original bill of complaint as though fully set out herein
with leave of reference thereto as often as may be necessary.

That on or about to-wit:-May 28th., 1925, the said Frank B. Nihart made a trip to Barnwell and was shown the property hereinabove described as the 330 acres mentioned in the option of May 25th., 1925, and then and there Mr. Nihart, in the presence of other witnesses and the defendant C. M. Nelson, accepted in full, the offer and option made by the said C. M. Nelson on May 25th., 1925, and that the said C. M. Nelson at this time delivered to the said Frank B. Nihart, an abstract of Title to the said property stating that the transaction was accepted by him and that the transaction was closed so far as he was concerned and gave to the said Frank B. Nihart, the right to examine the said abstract in connection therewith and that the said Frank B. Nihart a few days afterwards called upon the said C. M. Nelson, for the purpose of obtaining deed to the property which he had purchased from him; that the said C. M. Nelson then and there refused to execute the conveyance and still refuses to execute the conveyance which he agreed to do according to the terms of the said option of May 25th., 1925.

That the said F. B. Nihart on the 17th., day of June, 1925, assigned and transferred all his right, title and interest in and to said option and property described therein to your petitioner, Agnes B. Lott, for a valuable consideration and that since receiving the said transfer and before the expiration of the time named in the option your petitioner caused to be made to the said C. M. Nelson, a tender in the sum of \$2500.00 with the request that he execute a conveyance to her conveying the property herein described, which money the said C. M. Nelson refuses to accept and to execute a conveyance conveying the said property to your petitioner and that your petitioner herewith deposits said sum of \$2500.00, being the sum named in the option dated May 25th., 1925, which deposit is made with this Honorable Court for the purpose of paying the said C. M. Nelson for the property herein described and in accordance with the terms of her said option herein mentioned and which said sum your petitioner deposits subject to any orders and decrees of this court which it may deem fit to render and your petitioner hereby subjects the said \$2500.00 and herself unto this court and offers to do equity as decreed by said court.

PRAYER FOR PROCESS.

THE PREMISES CONSIDERED your petitioner prays that the said C. M. Nelson be made party respondent to this original bill of complaint by the usual process of this Honorable Court; that he be required to demur, plead to or answer the same within the time and under the pains and penalties as required by law or that the same be forever confessed.

PRAYER FOR RELIEF.

That on the final hearing of this cause, the defendant, C. M. Nelson be required to execute the plaintiff, a sufficient conveyance of said property conveying to your petitioner, Agnes B. Lott, the property described in the original bill of complaint.

That if your petitioner is mistaken in the relief prayed for then Your Honor will grant unto her such other further, different and general relief as she in justice and equity may be entitled to receive under the allegations and proof, she will ever pray, etc.,

AGNES B. LOTT,

HAMILTON & MOORER,
Attorneys for Complainant.

FOOTNOTE:-

The respondent, C. M. Nelson, is required to answer each and every allegation in the foregoing bill of complaint, paragraph FIRST to SECOND, inclusive, but not under oath, Answer under oath is hereby expressly waived.

HAMILTON & MOORER,
Attorneys for Complainant.

Barnwell, Alabama.
5-24-25.

Mr. Frank B. Nihart,
Bay Minette, Alabama.

Dear Sir:-

In reply to your letter will say that I would take twenty five hundred dollars for the (330) acres of land \$2500.00. I did not buy with the intention of selling, but if the parties want it at that price cash alright. I had it surveyed and can show all lines I will give 30 days to decide.

Sincerely yours,

C. M. Nelson,

Filed: June 3rd., 1925, at 8:05 A. M.
Recorded: June 3rd., 1925.
DEED BOOK 36 N.S. Page 208.

Original 1st

RECORDED

Filed June 26/20
J. P. McManis
Attorney

Filed June 25th 1925

Hamilton & Moore
attorneys

LAW OFFICES
RICKARBY, BEEBE & COLEY
903-4-5 VAN ANTWERP BUILDING
MOBILE, ALA.

E.G. RICKARBY
W.C. BEEBE
D.R. COLEY, JR.
H.M. HALL

May 3, 1926.

T. W. Richerson, Esq.,
Bay Minette, Alabama.

Dear Sir:

CARLSON vs. SCHILLER: With this we hand you for filing answer in the above case -- also the original bill which we find in the files. We are sending copy of this answer to Mr. Stone.

Please acknowledge receipt on enclosed postal.

Yours very truly,

RICKARBY, BEEBE & COLEY,

By *Rickarby*

R:S
Enc.

AGNES B. LOTT,
Complainant,

vs.

C.M. NELSON, Also Known
as CHARLES M. NELSON,
Defendant.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

NO. _____

IN EQUITY

Comes the defendant in the above styled cause, and demurs to the bill of complaint exhibited against him, and assigns thereto the following several and separate grounds of demurrer:

1. There is no equity in said bill of complaint.

2. It appears from the facts alleged that the only option given by the defendant or offer made by him to sell to the said Frank B. Nihart was in a letter written by the defendant to said Frank B. Nihart, a copy of which is made Exhibit A to the bill of complaint, and that in said offer or option there is no sufficient description of the lands which are the subject matter of this suit.

3. It appears from the facts alleged that the written option or offer of the defendant to sell to the said Frank B. Nihart does not describe any particular land or lands, and that said option or offer is, therefore, void and of no effect.

4. It appears from the facts alleged that the written offer or option made or given by the defendant to the said Frank B. Nihart is obnoxious to the Statute of Frauds, in that the lands in question are not described, either in said offer or option or in some other writing to which it refers.

5. It appears from the facts alleged that the lands are not described in the written option made Exhibit A to the bill of complaint with such definiteness or certainty that they can be located by reference to said written option, or any other instrument in writing therein mentioned.

6. It appears from the facts alleged that the option, a copy of which is made Exhibit A to the bill of complaint, does not contain any description by which the lands therein mentioned can be thereby identified.

7. It appears from the facts alleged that the option given by the defendant to the said Frank B. Nihart, a copy of which is made Exhibit A to the bill of complaint, does not comply with the Statute of Frauds, in that it fails to describe any lands with such certainty or definiteness that they can be identified or located from or by reference to said option.

8. No sufficient facts are alleged to show that at the time it is alleged the said Frank B. Nihart called upon the defendant for the purpose of obtaining a deed to the property in question, he tendered any money to the defendant, or was ready, able and willing to pay the agreed purchase money.

9. No sufficient facts are alleged to show that the option alleged to have been given by the defendant to the said Frank B. Nihart was in force or effect at the time it is alleged that said option was assigned to the complainant.

10. For aught that appears from the facts alleged, the said Frank B. Nihart and the defendant, by mutual consent, had cancelled, annulled or rescinded the said option, of which Exhibit A is a copy,

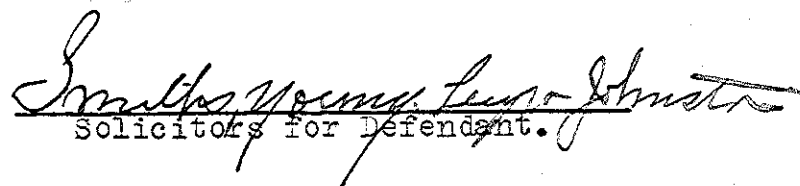
prior to the time he, the said Frank B. Nihart, assigned the same to the complainant herein.

11. For aught that appears from the facts alleged at the time complainant is alleged to have tendered the said \$2,500.00 to the defendant, the option alleged to have been given by the defendant to the said Frank B. Nihart had been annulled or abandoned by mutual consent.

12. No sufficient facts are alleged to show that at the time complainant is alleged to have made said tender of two thousand five hundred dollars (\$2,500.00) to the defendant, the defendant knew or had any notice that said option, a copy of which is made Exhibit A to the bill of complaint, had been assigned to the complainant, or that complainant had any right, title or interest in or to said option.

13. No sufficient facts are alleged to show that, at the time it is alleged complainant made said tender of two thousand five hundred dollars (\$2,500.00), and requested the execution of a deed by the defendant, defendant knew or had any notice that the complainant had any right to demand or request such deed.

14. For aught that appears from the facts alleged, the defendant did not know, at the time complainant requested said deed, that the said Frank B. Nihart had assigned said option to the complainant, or that complainant had any right to request or demand any deed from the defendant.


Solicitors for Defendant.

BAY MINETTE, ALA

March 20th 1928 No.

BALDWIN COUNTY BANK

61-258

PAY TO THE
ORDER OF

Agnes B. Lott

\$2500.00

PAY TO THE ORDER OF Agnes B. ...
Twenty Five Hundred XXXXXXXXXXXXXXXXXXXXXXXXXXXX DOLLARS

Agnès B. Lott
vs.
C. M. Nelson.

P. W. Richardson

SECRETARY OF DEFENSE