

4673

CHARLES N. TAYLOR,	Y	
Complainant,	Y	IN THE CIRCUIT COURT OF
vs.	Y	
	Y	BALDWIN COUNTY, ALABAMA
W. B. THOMPSON, ET AL.,	Y	
Respondents.	Y	IN EQUITY NO. 4673
	Y	

FINAL DECREE

This cause coming on to be heard was submitted on behalf of the Complainant on the Bill of Complaint, Decree Pro Confesso of this Court dated February 18, 1960, and the Testimony taken orally before the Court and transcribed by the Court Reporter and filed in said cause on the 19th day of February, 1960, and the Court having considered the same is of the opinion that the Complainant is entitled to the relief prayed for in the Bill of Complaint, it is, therefore

ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, In Equity, as follows:

1. That neither of the Respondents herein, W. B. Thompson, also known as Wade B. Thompson, or Margurete Thompson, have any right, title, interest, equity, claim or demand in and to the following described real property or the improvements located thereon:

PARCEL A. Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 1954 feet, run thence West 700 feet to a point on the East line of U. S. Highway 90, said point being located 688 feet due North of the East and West half section line of said Section 36, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville & Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; run thence West 393.3 feet to the East margin of U. S. Highway 90; run thence in a South-westerly direction along said Highway 224 feet to the point and place of beginning.

PARCEL B. Beginning at a point on the East line of Highway 90 that is Nine Hundred and Twelve (912) feet due North of the East and West Half Section line of Section 36, Township 5 South, Range 3 East, and running thence East One Hundred and Fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less, to the East line of Highway 90; thence run South twenty-five (25) feet, more or less, to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres, more or less, and

lies in Section 36, Township 5 South, Range 3 East,  
Baldwin County, Alabama.

2. That neither of the Respondents W. B. Thompson or Margurete Thompson are entitled to any of the proceeds of that certain contract of insurance dated December 28, 1956, between the Complainant Charles N. Taylor and The Continental Insurance Company of New York being policy number 143 of said insurance company and that the only persons entitled to receive any of the proceeds of said policy of insurance are the Complainant Charles N. Taylor and H. V. Higley, as Administrator of Veterans Affairs, an officer of the United States of America, or his successors in office as such.

3. That the contract of sale entered into by and between the Complainant and his wife and the Respondents dated October 20, 1956, is null and void and of no force and effect and the Respondents W. B. Thompson and Margurete Thompson have forfeited any rights which they might have had thereunder.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Respondents W. B. Thompson and Margurete Thompson pay the cost herein incurred, for which let execution issue.

Done this 19th day of February, 1960.

  
Circuit Judge

CHARLES N. TAYLOR,	X	
	X	IN THE CIRCUIT COURT OF
Complainant,	X	
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
	X	
W. B. THOMPSON, ET AL.,	X	IN EQUITY
	X	
Respondents.	X	

DECREE PRO CONFESSO

It having been made to appear to the Court that more than twenty (20) days have elapsed since the rendition of its decree on January 19, 1960, overruling the demurrer of the Respondents W. B. Thompson and Margurete Thompson to the Bill of Complaint and that it was provided in and by the terms of said order that they would have twenty (20) days in which to file their answer; and it further appearing to the Court that said Respondents have failed to plead or answer to the Bill of Complaint; and the Court having considered all of the above, is of the opinion that a decree pro confesso should, on motion heretofore filed by the Complainant, be rendered against said Respondents, it is, therefore

ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, In Equity, that the Bill of Complaint heretofore filed in this cause be, and the same is hereby, taken as confessed in all things against W. B. Thompson and Margurete Thompson, the Respondents.

Done this the 19<sup>th</sup> day of February, 1960.

**FILED**  
FEB 22 1960  
ALICE J. DUCK, Register

Hubert M. Todd  
Circuit Judge

CHARLES N. TAYLOR,	I	
Complainant,	I	IN THE CIRCUIT COURT OF
vs.	I	
	I	BALDWIN COUNTY, ALABAMA
W. B. THOMPSON and	I	
MARGURETE THOMPSON,	I	IN EQUITY
Respondents.	I	

Comes now the Complainant in the above styled cause, the same having been transferred to this, the Equity Side of the Circuit Court of Baldwin County, Alabama, from the Law Side of said Court, and files this his Bill of Complaint and respectfully represents and shows as follows:

1. That the Complainant is over the age of twenty-one years and a resident citizen of Baldwin County, Alabama, residing at Gulf Shores, Alabama. That the Respondents are both over the age of twenty-one years and resident citizens of the State of Alabama, residing, your Complainant is informed and believes, in Prichard, Alabama.

2. That your Complainant is the owner and in possession of the following described real property situated in Baldwin County, Alabama, viz:

PARCEL A. Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 1954 feet, run thence West 700 feet to a point on the East line of U. S. Highway 90, said point being located 688 feet due North of the East and West half section line of said Section 36, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville & Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; thence run West 393.3 feet to the East margin of U. S. Highway 90; run thence in a South-westerly direction along said Highway 224 feet to the point and place of beginning.

PARCEL B. Beginning at a point on the East line of Highway 90 that is Nine Hundred and Twelve (912) feet due North of the East and West Half Section line of Section 36, Township 5 South, Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less, to the East line of Highway 90; thence run South twenty-five (25) feet, more or less, to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres, more or less, and lies in Section 36, Township 5 South, Range 3 East, Baldwin County, Alabama.

3. That on, to-wit: the 20th day of October, 1956, the Complainant and his wife, Alyne A. Taylor, entered into a contract of sale with W. B. Thompson and Margurete Thompson, his wife, for the sale to the Respondents by the Complainant of the property hereinabove described, a copy of which contract of sale is attached hereto and marked "EXHIBIT A" and by reference made a part hereof as though expressly incorporated herein. That in and by the terms of said contract the Respondents agreed to pay the Complainant the sum of Fourteen Thousand Dollars (\$14,000.00) for said property and the improvements located thereon, Two Thousand Dollars (\$2,000.00) of which was paid on the execution and delivery of said contract and the balance of which was to be payable in monthly installments of One Hundred Dollars (\$100.00) each, plus interest at the rate of four percent (4%) per annum on the unpaid balance remaining due from time to time until paid in full. In addition to said sum the Respondents agreed to pay the Complainant an amount equal to the amount by which the principal indebtedness secured by a mortgage from the Complainant to the Administrator of Veterans Affairs of the United States, was reduced from the date of said contract to the date on which the Respondents would have paid the balance due under said contract, and thereby become entitled to demand a deed to said property. In addition to agreeing to make said payments the Respondents agreed to keep said property and the improvements located thereon insured against fire and windstorm with extended coverage in a good and reliable insurance company in an amount not less than the amount due the Complainant under the terms of said contract and with a loss payable clause payable to the Complainant as his interest may appear; and the Respondents agreed to purchase said policy and to regularly pay the premiums thereon and have the same deposited with the Complainant during the term of said contract. It was further provided in and by the terms of paragraph "FOUR" that in the event of default by the Respondents in the payment of any amounts due under said contract or a breach by the Respondents of the terms and conditions thereof that said contract might, at the option of the Complainant, be declared null and void and to be forfeited and that the Complainant should have the right to the immediate possession of said pro-

erty without further notice to the Respondents and that any amounts paid by the Respondents to the Complainant under the terms of said contract should be retained by him as rent and liquidated damages for the breach thereof.

4. The Complainant further alleges that the Respondents went into the possession of said property under said contract of sale and that on, to-wit: the first day of January, 1958, the Respondents defaulted under said contract in that they failed to make the payments that was therein provided and they failed to take out and carry insurance as therein provided, and thereupon the Complainant did declare said contract null and void and the rights of the Respondents forfeited thereunder. The Complainant further alleges that the Respondents had notice of such declaration by the Complainant and even though said contract was declared null and void and the Respondents had forfeited all of their right, title, and interest in and to said property therein described, they refused to surrender the possession of said property and your Complainant was compelled to institute an action in ejectment in the Circuit Court of Baldwin County, Alabama, At Law. That said ejectment action was set for trial on March 11, 1959, but on the day prior thereto the attorneys for the Respondents, Messrs. Wilters & Brantley of Bay Minette, Alabama, produced a certificate of a physician that the Respondent Wade B. Thompson was ill and would be physically unable to attend court on March 11, 1959, and the case was then continued by agreement of counsel with the understanding that the Respondents would attempt to raise the amount of money by which the contract was then in default; to-wit, some Two Thousand Nine Hundred Dollars (\$2,900.00). On March 23, 1959, it was stipulated and agreed by and between the parties to said ejectment action, and to this cause, acting by and through their respective attorneys of record that the Respondents were, in fact, in default under said contract and that the same had been declared null and void and that unless the Respondents paid the Complainant all amounts due him under said contract that he would surrender the possession of said property by March 28, 1959, and that an order would be entered in said ejectment suit in favor of the Complainant and against the Respondents for the property sued for. That on March 25, 1959, the improvements

located on the said property were virtually destroyed by fire and the Respondents vacated said property and the Complainant went into possession of the same and he is now in possession of the same by and through one Charles Goodrum and has been since March 26, 1959.

5. On December 28, 1956, the Complainant Charles N. Taylor, entered into a contract of insurance with The Continental Insurance Company of New York, being policy #143 written by Robertsdale Insurance Agency as agent for said company in the amount of \$7,700.00 with a loss payable clause to the Administrator of Veterans Affairs and his successors in office as such under the terms of a mortgage which the Veterans Administration had on said property at that time and has on the said property at this time. That the original of such contract of insurance is in the possession of the Veterans Administration in its regional office in Montgomery, Alabama. That on January 15, 1957, the Veterans Administration, acting by and through C. H. Newsom, wrote a letter to Robertsdale Insurance Agency, a copy of which is attached herewith and marked "Exhibit B" and by reference made a part hereof as though fully incorporated herein and as a result of said letter an endorsement was attached to said policy without the knowledge or consent of the Complainant (the assured in said policy) by the Continental Insurance Company, acting by and through Robertsdale Insurance Agency of Robertsdale, Alabama, which provided that loss or damage, if any, under said policy, shall be payable to H. V. Higley, as Administrator of Veterans Affairs and his successors in office as such, Washington, D. C., first mortgagee (or trustee), and to W. B. Thompson, Robertsdale, Alabama, as interests may appear.

6. On July 13, 1959, under a settlement agreement entered into by and between the Complainant Charles N. Taylor and The Continental Insurance Company whereby the said Charles N. Taylor was to receive as the proceeds of said policy the sum of \$7,500.00, the said The Continental Insurance Company issued its draft in Birmingham, Alabama, in the sum of \$7,500.00 payable to Charles N. Taylor; H. V. Higley, as Administrator of Veterans Affairs and his successors in office; W. B. Thompson; Norborne C. Stone, Jr., attorney, for and on account of the loss which occurred on March 25, 1959, to the property hereinabove described and protected by the terms of said po-

licy of insurance. That the Complainant has requested the said Wade B. Thompson to endorse said check but he has failed and refused to do so and thereby avoid the necessity of further litigation.

7. That the Defendant Wade B. Thompson has no right, title, claim, demand, equity or interest in said property which would warrant the payment to him of any sum or sums under the terms of said policy of insurance.

8. That the present balance due under the terms of said mortgage from the Complainant to the Administrator of Veterans Affairs of the United States of America is \$6,110.78 plus an amount equal to .6723 cents per day since April 30, 1959, and less an amount to be credited to the Complainant in an escrow account in the amount of \$304.20. That unless a decree is herein entered that neither of the Respondents have any right, title, interest, claim, equity or demand in and to said property or the improvements located thereon, that this Complainant will be irreparably damaged in that he will be unable to collect the amount due him under said contract of insurance and will not be able to secure the benefits due him under said contract of insurance.

WHEREFORE, the premises considered the Complainant respectfully prays that upon a final hearing of this cause that this Honorable Court will enter an order or decree as follows:

1. Declaring that neither of the Respondents have any right, title, interest, equity, claim or demand in and to the property hereinabove described and the improvements located thereon.

2. That the Complainant Charles N. Taylor and the Administrator of Veterans Affairs of the United States of America are the only persons entitled to any of the proceeds of the policy of insurance hereinabove referred to.

3. That the contract of sale entered into by and between the Complainant and his wife and the Respondents dated October 20, 1956, is null and void and of no force and effect and that the same has been forfeited.

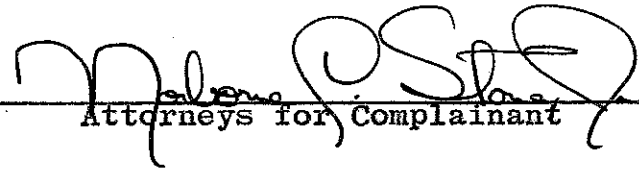
And your Complainant prays for such other, further and



different relief as in the premises will be meet and proper.

Respectfully submitted,

CHASON & STONE

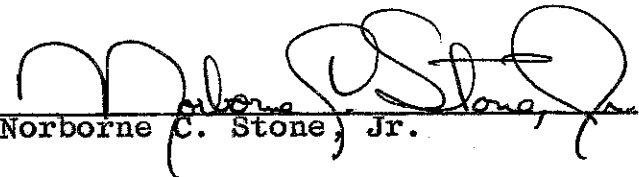
By:   
Attorneys for Complainant

STATE OF ALABAMA


BALDWIN COUNTY

Before me, G. MAC HUMPHRIES, a Notary Public, in and for said County in said State, personally appeared Norborne C. Stone, Jr., who is known to me and who, after being by me first fully and legally sworn, did depose and say under oath as follows:

That his name is Norborne C. Stone, Jr. and he is one of the attorneys of record for the Complainant in the above styled cause; that he is informed and believes and upon such information and belief alleges that the facts stated therein are true and correct.

  
Norborne C. Stone, Jr.

Sworn to and subscribed before me on this the 24<sup>th</sup> day of August, 1959.

  
Notary Public, Baldwin County, Alabama

**FILED**  
AUG 24 1959  
ALICE L. DICK, CLERK  
REGISTER

STATE OF ALABAMA )  
BALDWIN COUNTY )

EXHIBIT A

THIS CONTRACT AND AGREEMENT, made and entered into this 20th day of October, 1956, by and between CHARLES N. TAYLOR and ALYNE A. TAYLOR, his wife, hereinafter referred to as Vendors, and W. B. THOMPSON, and MARGURETE THOMPSON, his wife, hereinafter referred to as Vendees,

WITNESSETH:

That for and in consideration of the mutual covenants herein contained and of the sum of Two Thousand (\$2,000.00) Dollars this day in cash in hand paid by the Vendees to the Vendors and of the further sums as hereinafter set forth, BE IT MUTUALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

ONE:

The Vendees do hereby agree to buy from the Vendors and the Vendors do hereby agree to sell to the Vendees, upon the terms and subject to the conditions hereinafter set forth, the following described real property situated in County of Baldwin, State of Alabama, to-wit:

PARCEL A: Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 195 feet, run thence West 700 feet to a point on the East line of U. S. Highway #90, said point being located 688 feet due North of the East and West half Section line of said Section Thirty-six, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville and Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; thence run West 393.3 feet to the East margin of U. S. Highway #90; run thence in a Southwesterly direction along said Highway 224 feet to the point and place of beginning.

PARCEL B: Beginning at a point on the East line of Highway #90 that is Nine Hundred and twelve (912) feet due North of the East and West half Section line of Section 36, Township 5 South, of Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less to the East line of Highway 90; thence run South twenty-five (25) feet more or less to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres more or less and lies in Section 36, Township Five (5) South, Range Three (3) East, Baldwin County, Alabama.

together with all and singular the rights, benefits, privileges, improvements, tenements, hereditaments and appurtenances unto the same belonging or in anywise appertaining.

TWO:

The Vendees do hereby agree to pay to the Vendors, their heirs and assigns, for and as the purchase price of the above described property

the sum of Sixteen Thousand (\$16,000.00) Dollars of which the sum of Two Thousand (\$2,000.00) Dollars has this day been paid and receipt of which is hereby acknowledged by the Vendors; the balance sum in the amount of Fourteen (\$14,000.00) Thousand Dollars to be paid in monthly installments of One Hundred (\$100.00) Dollars per month, plus interest at the rate of Four (4%) per cent per annum on the unpaid balance remaining due from time to time until paid in full, and, provided however, that as a part of the consideration herein stated, the Vendees shall assume the mortgage indebtedness set forth in Paragraph THREE below and in accordance with the terms named therein. The Vendors shall pay the monthly installments due on said indebtedness during the life of this contract. All payments made by the Vendees to the Vendors shall be applied first to the interest then due and the balance shall be applied to the principal amount due hereunder and it is expressly understood and agreed that the Vendees shall have the right on the due date of any installment hereof, to pre-pay the entire indebtedness or any part thereof not less than the amount of one installment and such payments shall be in multiples of One Hundred (\$100.00) Dollars each.

### THREE:

It is further understood and agreed that the parcel of property described in PARCEL A, above, together with the improvements thereon, is subject to a mortgage executed by the Vendors herein to Carl E. Gray, Jr. as Administrator of Veterans Affairs, an Officer of the United States of America, and his successors in office as such. And Vendees herein do hereby expressly agree to pay to the Vendors, his heirs and assigns, in addition to the amounts hereinabove provided for, an amount equal to the amount by which the principal indebtedness secured by the said mortgage, is reduced from the date hereof to the date on which Vendees shall become entitled to demand a good and sufficient warranty deed to the above described property.

It is further understood and agreed by the parties hereto that the Vendors shall have the right to immediate possession of the land described above and the improvements thereon and that Vendees do hereby agree to keep said buildings and property in a good state of repair and not to commit or permit waste thereof; and Vendees further agree to comply with all the laws of the State of Alabama and all ordinances of the Town of Robertsdale, Alabama, relative to nuisances and not

to use said property for any illegal or illegitimate purposes, nor to assign their interest in this contract or the property covered hereby without the written consent of the Vendors endorsed thereon.

Vendees further agree to keep said property and improvements located thereon insured against fire and windstorm with extended coverage in a good and reliable insurance company in an amount not less than the amount due to Vendors hereunder and with loss-payable clause to the Vendors, as their interest may appear; and in this regard Vendees do hereby agree to purchase said policy and to regularly pay the premiums thereon and have the same deposited with Vendors during the term hereof.

Vendors hereby agree to promptly pay the indebtedness secured by the mortgage referred to above as the same becomes due and to comply in all respects with all the terms and conditions of said mortgage so as to prevent default in the same and foreclosure thereof.

#### FOUR:

In the event of default by Vendees in the payment of any of the amounts due hereunder or a breach by said Vendees of any of the terms and conditions hereof, in the event of which breach, this contract may at the option of the Vendors be declared null and void, the Vendors shall have the right to declare this contract forfeited and null and void and shall have the right to immediate possession of the property covered hereby without further notice to Vendees and any amounts paid by Vendees to Vendors under the terms hereof shall be retained by Vendors as rent and liquidated damages for the breach thereof.

Vendors do hereby agree to pay promptly when the same shall become due all ad valorem taxes on said property and to regularly assess such property for taxation, and in the event of the failure of the Vendors in this regard the Vendees shall have the right to pay such taxes and deduct any amount so paid from the principal amount due hereunder.

#### FIVE:

Upon the payment of all amounts due hereunder and more particularly set forth above and upon compliance by the Vendees with all the terms and conditions hereof the Vendors agree to execute and deliver to Vendees a good and sufficient warranty deed conveying of all the above described real property and subject only to the mortgage referred to above, right-of-way for public roads and taxes then due on said property; and the Vendees agree to assume said mortgage and the

principal indebtedness then due thereon and to thereafter regularly pay such indebtedness and to comply with all the terms thereof and the mortgage given as security therefor.

Time is of the essence of this contract and agreement and the provisions hereof shall be binding upon the parties hereto, and to their heirs, executors and administrators.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal, in duplicate, on the day and year first above written.

Charles W. Taylor (SEAL)

Alyne A. Taylor (SEAL)

W. B. Thompson  
Wade B. Thompson (SEAL)

\_\_\_\_\_ (SEAL)

STATE OF ALABAMA }

BALDWIN COUNTY }

I, the undersigned notary public, in and for the State of Alabama at Large, hereby certify that Alyne A. Taylor, Charles W. Taylor and W. B. Thompson, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 20th day of October, 1956.

My commission expires July 14, 1958.

James M. Bailey  
Notary Public

VETERANS ADMINISTRATION  
Regional Office  
400 Lee Street  
Montgomery, Alabama

COPY

COPY

Your File reference:

Robertsdale Insurance Agency  
Robertsdale, Alabama

In Reply Refer to: 3022/4BD  
DL-1115-Ala. 1  
TAYLOR, Charles N.

Gentlemen:

Since our letter to you dated January 7, 1957, requesting an endorsement correcting the mortgagee clause, other developments have materialized.

It is understood that this property was purchased by W. B. Thompson in November, 1956. The purchase was made under a lease sale contract, at a sales price of \$14,000.00. Inasmuch as the insurance policy is for only about half of this amount, it appears that Mr. Thompson might want separate insurance to protect his interest in the property. He made a substantial down payment on this property. He appears to be a capable business man. It is understood that there might be a possible second mortgage on this property. It is believed that you should issue a policy covering the interest of all parties concerned. In any event, please issue a current policy covering all parties of interest and forward it to this office with appropriate endorsement as follows:

"H. V. Higley, as Administrator of Veterans Affairs,  
and his successors in office as such."

Yours very truly,

S/C. H. Newsom  
Chief, Loan Service and Claims  
Section

EXHIBIT B

CHARLES N. TAYLOR, : IN THE CIRCUIT COURT OF  
 Plaintiff, : BALDWIN COUNTY, ALABAMA,  
 VS. : IN EQUITY.  
 W. B. THOMPSON and :  
 MARGURETE THOMPSON, :  
 Defendants. : CASE NO. 4673

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

D E M U R R E R

Now comes the Respondents, W. B. THOMPSON and MARGURETE THOMPSON, in the above style cause, and respectfully file this demurrer, to the bill of complaint and to each and every paragraph and clause contained therein, and assign as grounds therefor the following:

1. For that the allegations of Paragraph One based on information and belief are not properly averred to be statements of fact on such information and belief.

2. For that the averments of Paragraph Two of the complaint is but the conclusions of the pleader and is not supported by material averments.

3. For that complainant has not filed a true and correct copy of the deed by which he claims to own title to the properties described in Paragraph Two.

4. For that it affirmatively appears from the attached exhibit of a contract and agreement that the complainant does not own the described properties contained in Paragraph Two of complaint, but rather has a legal claim for an unpaid balance under the such contract.

5. For that it affirmatively appears from the attached contract and agreement that the respondents have an equity in the properties described in Paragraph Two of the complaint, which equity can only be destroyed, as a matter of law, by either a

deed from the Respondents or by foreclosure proceedings by the Complainant who holds a lien thereon by virtue of the said contract and agreement.

6. For that it affirmatively appears from the attached contract and agreement that all that the Complainant has is a lien on the real property described in Paragraph Two of the complaint to secure the payment of an unpaid balance under the said contract.

7. For aught it appears from the complaint, there is no unpaid balance due under the contract and as such, the Complainant has no further interest in and to the lands described in Paragraph Two of the complaint.

8. For that the averments in Paragraph Three of Complainant are but the legal conclusions of the pleader and not supported by material averments.

9. For that it affirmatively appears from the averments of Paragraph Three that the Respondents have paid great amounts of money to the Complainant under the said contract and agreement and that the Complainant has received such great amounts and that the Respondents, as a matter of law, have an equity in and to the lands as described in Paragraph Two by virtue of the said contracts and by virtue of the payment of valuable considerations under the terms of the said contract.

10. For that it affirmatively appears from the allegations of Paragraph Three that not only did the Respondents pay valuable considerations under the said contract to the Complainant, but also that the Respondents maintain as a part and parcel of the agreement and contract of purchase, an insurance policy with a loss payable clause to the Administrator of Veterans Affairs of the United States, to whom the Complainant was indebted by virtue of an outstanding mortgage agreement entered



into by Complainant prior to the time he sold his interest to the Respondents and that by virtue of such maintenance of such insurance contract, these Respondents paid further valuable considerations under the said contract and accumulated and accrued further Equity thereunder.

11. For that the option favoring the Complainant referred to in Paragraph Three in the event of default of the said contract and agreement, as a matter of law, constitutes an illegal act and cannot, as a matter of law, be enforced at law or in equity.

12. For that the averments of Complainant in Paragraph Four are but the conclusions of the pleader and not supported by material averments.

13. For that the averments that Respondents defaulted under the contract contained in Paragraph Four of the complaint are but the conclusions of the pleader and not supported by material averments.

14. For that the averments that the Respondents failed to provide and take out insurance as required under contract are but the conclusions of the pleader and are not supported by material allegations. And further, that such averments is in direct conflict with the averments of Paragraph Six of the complaint wherein it is stated that an insurance policy was in effect at the time of an alleged loss and that \$7,500.00 is due to a beneficiary under this said policy as a result of the said loss.

15. For that it affirmatively appears from Paragraph Five of the Complaint that the Respondents did maintain the said insurance policy and were recognized as beneficiaries thereunder by the agent which wrote the Policy, the Robertsdale Insurance Agency of Robertsdale, Alabama, which, recognizing the interest

of these Respondents, actually left off as Beneficiaries under the said policy, the Complainant.

16. For that it affirmatively appears from the averments of Paragraph Four that the reason that the Respondents vacated the properties was because of a fire loss which virtually destroyed their premises and not because of the exercising of a superior right to possession of the properties by the Complainant.

17. For that it affirmatively appears from the averments that there was a conflict in the interpretations of the said agreement and contract between the Complainant and the Respondents and that such failure to make payments thereunder by Respondents did not come about until after such conflict was in existence; and for aught that appears, the non-making of payments by Respondents under the contract were agreed to by the Complainant, and waived until the conflict had been resolved and determined between the parties.

18. For that it affirmatively appears from the complaint and from the attached copy of agreement and contract that as a part and parcel of the agreement, the Respondents were taking on and did agree to and did pay off a portion of an existing mortgage indebtedness running from the Complainant to the Administrator of Veterans Affairs in this, that payments made by the Respondent under their agreement were applied directly to that said mortgage agreement and that as such, it affirmatively appears that these Respondents were building and developing and becoming the owners of a greater equity in the property described in the complaint with the making of each payment.

19. For that it is a matter of judicial knowledge from the averments contained in the complaint that, had the Complainant made the payments on the outstanding mortgage indebtedness

to the Administrator of Veterans Affairs, he would have increased his equity in and to the premises and that, in as much as these Respondents made the payments for him under their agreement, they have, by virtue of the contract which they had made in writing, inured to the same benefits which would have inured to the Complainant had he made the payments.

20. For it affirmatively appears from Paragraph Five of the complaint that an insurance policy was in existence at the time of the alleged loss contained in Paragraph Four of the complaint, a time when the Respondents were in the actual peaceable, open, notorious, and adverse possession to the said lands, excepting that they would recognize the claim of the Complainant for an unpaid balance, and that the insurance policy which was in effect at that time was such as a result of the payments made by these Respondents or under the alleged contract, thus affirmatively showing to this Court that they were not in default under their contract at that time.

21. For aught that appears from Paragraph Five, that the loss payable under the alleged contract of insurance which was kept in force by payments made by these Respondents, after payment had been made to the Administrator of the Veterans Affairs, was then payable to these Respondents.

22. For aught that appears from Paragraph Five, these Respondents were considered as mortgagors by virtue of their contract and agreement and under the insurance policy in effect as a result of their payments of premiums.

23. For that it affirmatively appears from Paragraph Five that these Respondents were considered as mortgagors by all interested parties in the particular transaction and in relation to any outstanding liens against the properties described in these proceedings and by virtue of the said contract and agreement.

24. For that it affirmatively appears from Paragraph Five and from the complaint taken as a whole that the Complainant considered these respondents as mortgagors until such times there was a loss and they deserted the premises and had a disagreement with him on the matter of insurance, and that thereafter, he has made every effort to avail himself of credit under the said insurance contract and of all the payments made on principal and interest under the said contract and agreement, and at the same time, hold title the real properties described in these proceedings free and clear from any claim of these Respondents, and that such action on the part of the Complainant shows conclusively to this Court that Complainant does not have clean hands and does not offer to do equity.

25. For that the propositions of the Complainant throughout the complaint conclusively show to this Court that he seeks an unconscionable end to be visited upon these Respondents.

26. For that the allegations of Paragraph Six of the complaint are but the conclusions of the Complainant and are not supported by material averments.

27. For that the averments in Paragraph Four to the effect that certain parties have agreed that these Respondents were at one time or are not in default under the terms of the agreement are not the legal equivalent of an averment that these Respondents have had their interest foreclosed upon and that the time for equity of redemption has run against them conclusively and does not have the effect of destroying their equities in the property.

28. For aught it appears any agreement referred to in Paragraph Four relative to default or possession of the property was not authorized by these Respondents or, having been authorized, were done so without full realization and understanding

of their legal and equitable rights under the Constitution and the laws of Alabama and that any such agreements are therefore not binding.

29. For aught that appears, the agreements referred to in Paragraph Four were not consented to by these Respondents.

30. For that the averments of Paragraph Six of the Complaint are but the conclusions of the pleader and not supported by material averments.

31. For ~~that~~ it affirmatively appears from Paragraph Six of the complaint that these Respondents had and do have an equitable interest in and to the real properties described in these proceedings and that they have the legal claim to have the \$7,500.00 insurance applied to their credit under the said contract.

32. For that it affirmatively appears from Paragraph Six of the complaint that these Respondents, by their refusal to endorse the said insurance benefits have conclusively shown that they do not go along with the alleged agreements of Paragraph Four and elsewhere contained in the complaint and that they are insisting upon their legal and equitable rights to the equities in the real properties which they, by their payments both of principal, interest, and insurance premiums, have become entitled, as a matter of law.

33. For aught it appears from the averments of Paragraph Six, these Respondents have every legal and equitable right to take the positions which they have taken and to insist upon ~~having~~ credit to their equities in the said properties and of an assurance toward that end before they execute any endorsement on the said benefits under the said insurance policy.

34. For that it affirmatively appears from the Complaint as a whole and from the attached contract and agreement that these Respondents made payments to the Complainant which were broken down by the Complainant in such way that he applied a portion of the said payments toward a principal balance due and a portion of said payments to the credit of interest on an outstanding principal balance due and that as such, the Complainant has reconized the right of these Respondents to the Equities which they have developed under the terms of the said contract and that by such acceptance of said payments and such applications thereof, he has acquiesced in and approved the contention and the fact that as a matter of law they have become entitled to an Equity in the said premises and he is therefore now estopped from denying their Equities in the said premises.

35. For that the averments of Paragraph Seven of the Complaint are but the conclusions of the Pleader and are not supported by material averments.

36. For that the averments of Paragraph Seven are in direct conflict with the attached contract and agreement and the other averments of the Complaint which tend to show conclusively and as a matter of law that these Respondents did and do have a right, title, claim, demand, Equity and interest in the said properties which would warrent payment to them of any  
X sums under the said Insurance Policy.

37. For that the averments of Paragraph Eight of the Complaint are but the conclusions of the Pleader and are not supported by material allegations.

38. For that it affirmatively appears from Paragraph Eight when read in connection with and in conjunction with the attached contract and agreement that the alleged irreparable

damages", claimed to be sustained by Complainant, are also being sustained by the Respondents who have an equity in the land that is described by virtue of the agreement and who have the same rights, privileges, defenses and claims as does the Complainant, all as a result of the Complainant executing the said agreement and contract.

39. For that it affirmatively appears from the contract attached to the complaint and from the averments contained in the complaint that the total purchase price was \$16,000.00 and that toward the said purchase price these Respondents paid \$2,000.00 cash, in excess of \$3,000.00 on the principal by virtue of the monthly or installment payments made by them under the said purchase agreement, or a total of in excess of \$5,000.00 cash paid by them directly to the Complainant; that in addition to these payments, they are entitled to a credit for the full amount of the fire insurance loss, to-wit, \$7,500.00 and that upon the application of this amount to their purchase agreement and when adding the same to the payments made by them of the aforesaid, they will have paid in excess of \$12,500.00 to the Complainant under the said contract, leaving a net balance to the claim by him of no more than \$3,500.00, and that in as much as the complaint and the attached exhibits reflect such a fact, it affirmatively appears that these Respondents have a far greater equity in the said real properties than does the Complainant and that a most grave injustice, unconscionable act, and irreparable damage will be made and suffered upon these Respondents if Complainant's prayer is granted.

40. For that it affirmatively appears from the complaint and the attached Exhibits that these Respondents have an equity in the said real properties valued in excess of \$12,500.00 and that the Complainant's equity therein is no more than \$3,500.00.

41. For that Complainant is not entitled to the relief

prayed for in Paragraph One of his prayer for relief in this, that he has filed no material averments which would as a matter of law or in equity entitle him to such relief.

42. For that it affirmatively appears from the complaint and the attached exhibits that Complainant is not entitled to the relief prayed for in Paragraph One of his prayer for relief.

43. For that the Complainant is not entitled to the relief prayed in Paragraph Two of his prayer for relief in this, that there are no material averments made by the Complainant to sustain such prayer for relief.

44. For that it affirmatively appears from the complaint and the attached exhibits that not only may the Complainant and the Veterans Administration be entitled to credit to any proceeds under the said policy of insurance but, also that these Respondents are entitled thereto and that therefore Complainant's prayer for relief in Paragraph Two of such prayer is not sustained by his averments.

45. For aught it appears from the complaint and the attached Exhibits, the Complainant has never foreclosed any interest of these Respondents in said lands under the terms of the contract and agreement by which they obtained the equities they have in the said lands.

46. For aught it appears from the complaint and the attached exhibits the Complainant is in the illegal occupancy and possession of the premises, having obtained them without legal and due process of law.

47. For that it affirmatively appears from the averments of the complaint and the attached exhibits that Complainant's one effort to obtain the legal possession of the said premises,



to-wit, a suit in ejectment in the law side of this Honorable Court, was dismissed on the Motion of the Complainant and that, it having been dismissed, Complainant now finds himself in the unlawful possession of the said property.

48. For that the relief prayed for in Paragraph Three of Complainant's prayer for relief is not sustained by material averments by Complainant and cannot be granted.

49. For that it affirmatively appears from the complaint and the exhibits attached that there has been no foreclosure of the legal rights of these Respondents and that there are no averments contained in the said Bill or in the said attached exhibits which would sustain the entering of an order as prayed for in Paragraph Three of the prayer for relief.

50. For aught it appears the Complainant has an adequate remedy at law.

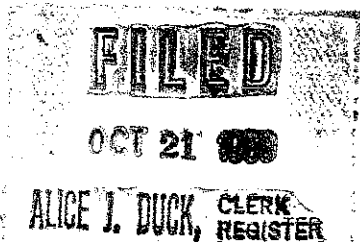
51. For that there is no equity in the bill to support the Complainant in the relief prayed for.


52. For that the Complainant does not offer to do equity at any place within his Bill of Complaint.

53. For aught it appears the Complainant has unclean hands in these proceedings and may not proceed until he has purged himself.

WHEREFORE, these Respondents having demurred to the complaint and attached exhibits and prayer for relief, now respectfully pray that this Honorable Court will enter an order sustaining these demurrers and denying the relief prayed for.

RESPECTFULLY SUBMITTED.



  
MOORE & SWINAULE  
Solicitors for Respondents  
819 Annex 1st National Bank Bldg.

4673

**FILED**  
OCT 21 1959  
ALICE J. DUCK, CLERK  
REGISTER

61713

CHARLES N. TAYLOR,	X	
Complainant,	X	IN THE CIRCUIT COURT OF
	X	
versus	X	BALDWIN COUNTY, ALABAMA
	X	
	X	IN EQUITY
W. B. THOMPSON, ET AL.,	X	
Respondent.	X	
	X	

DECREE OVERRULING DEMURRER

This cause coming on to be heard was submitted on the demurrer of the Respondents to the Bill of Complaint and the Court having considered the same is of the opinion that the demurrer should be overruled; it is, therefore

ORDERED, ADJUDGED and DECREED by the Court that the demurrer of the Respondents to the Bill of Complaint be, and the same is hereby, overruled.

It is further ORDERED that the Respondents be, and they are hereby, allowed twenty (20) days in which to file their answer.

DONE this 19th day of January, 1960.

**FILED**

JAN 19 1960

**ALICE L. DUCK, CLERK**  
**REGISTER**

*Robert M. Steele*

Circuit Judge

CHARLES N. TAYLOR,	X	
Complainant,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
W. B. THOMPSON, ET AL.,	X	
Respondents.	X	IN EQUITY
	X	

MOTION FOR DECREE PRO CONFESSO

Comes now the Complainant in the above styled cause, by his attorneys, and respectfully moves this Honorable Court to enter a decree pro confesso against the Respondents W. B. Thompson and Margurete Thompson and respectfully represents and shows unto this Honorable Court as follows:

That each of the Respondents was properly served with a copy of the Bill of Complaint in said cause and did subsequent thereto appear in this cause through Moore & Shinault, as their attorneys, and demur to the Bill of Complaint. That this Honorable Court did, on the 19th day of January, 1960, enter an order or decree overruling the demurrer of the Respondents to the Bill of Complaint and further ordering that the Respondents be allowed twenty (20) days in which to file their answer. That more than twenty (20) days have elapsed since the rendition of said decree and the Respondents have failed to plead or answer to the Bill of Complaint.

WHEREFORE, the Complainant respectfully prays that a decree pro confesso be rendered against said Respondents.

CHASON & STONE

FILED  
FEB 19 1960

ALICE J. DUCK, Clerk  
*Register*

By:   
Attorneys for Complainant

MOORE & SHINAULT  
ATTORNEYS AND COUNSELLORS AT LAW  
PROCTORS IN ADMIRALTY  
ANNEX FIRST NATIONAL BANK BUILDING  
MOBILE, ALABAMA

GEORGE J. MOORE  
JEROME P. SHINAULT

HEMLOCK 8-3579

October 20, 1959

Miss Alice Duck  
Register, Circuit Court  
Bay Minette, Alabama

In Re: Charles N. Taylor,  
Plaintiff,  
vs. W. B. Thompson and  
Margurete Thompson,  
Defendants

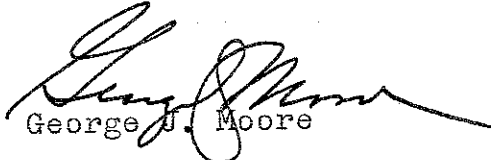
Dear Miss Duck:

I enclose herewith demurrers to the Bill of Complaint in this matter and request that you file them and advise us when the same will be set for a hearing.

With my kindest personal regards to you and to Judge Hall, I remain

Very truly yours,

MOORE & SHINAULT

  
George J. Moore

GJM:lc

Enclosures

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. \_\_\_\_\_

\_\_\_\_\_ TERM, 19\_\_\_\_

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon **W. B. Thompson and Margurete Thompson**

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

~~them~~

\_\_\_\_\_, Defendant

by **Charles E. Taylor**

\_\_\_\_\_, Plaintiff

Witness my hand this 21th day of August 19 59

*Alvin J. Smith*

\_\_\_\_\_, Clerk

CHARLES N. TAYLOR,

Plaintiff,

versus

W. B. THOMPSON, et al.,

Defendants,

I  
I  
I  
I  
I  
I  
I  
I  
I

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

271

ORDER TRANSFERRING CAUSE TO EQUITY

This day came the parties by their attorneys in open court and the Court having considered the motion heretofore filed in this cause by the Plaintiff to transfer this cause from the law side of this Court to the Equity side thereof, and the arguments in respect thereto, is of the opinion that said motion should be granted; it is, therefore

ORDERED, ADJUDGED and DECREED by the Court that this cause be, and it is hereby, transferred from the law side of the Circuit Court of Baldwin County, Alabama, to the equity side thereof.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff file in the Equity side of the Court a bill of complaint and that further proceedings be had thereon.

DONE this the 17 day of August, 1959.

*Hubert M. Hall*  
Circuit Judge

STATE OF ALABAMA )

BALDWIN COUNTY )

*Com Ed T*

THIS CONTRACT AND AGREEMENT, made and entered into this 20th day of October, 1956, by and between CHARLES N. TAYLOR and ALYNE A. TAYLOR, his wife, hereinafter referred to as Vendors, and W. B. THOMPSON, and MARGURETE THOMPSON, his wife, hereinafter referred to as Vendees,

WITNESSETH:

That for and in consideration of the mutual covenants herein contained and of the sum of Two Thousand (\$2,000.00) Dollars this day in cash in hand paid by the Vendees to the Vendors and of the further sums as hereinafter set forth, BE IT MUTUALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

ONE:

The Vendees do hereby agree to buy from the Vendors and the Vendors do hereby agree to sell to the Vendees, upon the terms and subject to the conditions hereinafter set forth, the following described real property situated in County of Baldwin, State of Alabama, to-wit:

PARCEL A: Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 1954 feet, run thence West 700 feet to a point on the East line of U. S. Highway #90, said point being located 688 feet due North of the East and West half Section line of said Section Thirty-six, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville and Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; thence run West 393.3 feet to the East margin of U. S. Highway #90; run thence in a Southwesterly direction along said Highway 224 feet to the point and place of beginning.

PARCEL B: Beginning at a point on the East line of Highway #90 that is Nine Hundred and twelve (912) feet due North of the East and West half Section line of Section 36, Township 5 South, of Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less to the East line of Highway 90; thence run South twenty-five (25) feet more or less to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres more or less and lies in Section 36, Township Five (5) South, Range Three (3) East, Baldwin County, Alabama.

together with all and singular the rights, benefits, privileges, improvements, tenements, hereditaments and appurtenances unto the same belonging or in anywise appertaining.

TWO:

The Vendees do hereby agree to pay to the Vendors, their heirs and assigns, for and as the purchase price of the above described property



the sum of Sixteen Thousand (\$16,000.00) Dollars of which the sum of Two Thousand (\$2,000.00) Dollars has this day been paid and receipt of which is hereby acknowledged by the Vendors; the balance sum in the amount of Fourteen (\$14,000.00) Thousand Dollars to be paid in monthly installments of One Hundred (\$100.00) Dollars per month, plus interest at the rate of Four (4%) per cent per annum on the unpaid balance remaining due from time to time until paid in full, and, provided however, that as a part of the consideration herein stated, the Vendees shall assume the mortgage indebtedness set forth in Paragraph THREE below and in accordance with the terms named therein. The Vendors shall pay the monthly installments due on said indebtedness during the life of this contract. All payments made by the Vendees to the Vendors shall be applied first to the interest then due and the balance shall be applied to the principal amount due hereunder and it is expressly understood and agreed that the Vendees shall have the right on the due date of any installment hereof, to pre-pay the entire indebtedness or any part thereof not less than the amount of one installment and such payments shall be in multiples of One Hundred (\$100.00) Dollars each.

THREE:

It is further understood and agreed that the parcel of property described in PARCEL A, above, together with the improvements thereon, is subject to a mortgage executed by the Vendors herein to Carl R. Gray, Jr. as Administrator of Veterans Affairs, an Officer of the United States of America, and his successors in office as such. And Vendees herein do hereby expressly agree to pay to the Vendors, his heirs and assigns, in addition to the amounts hereinabove provided for, an amount equal to the amount by which the principal indebtedness, secured by the said mortgage, is reduced from the date hereof to the date on which Vendees shall become entitled to demand a good and sufficient warranty deed to the above described property.

It is further understood and agreed by the parties hereto that the Vendors shall have the right to immediate possession of the land described above and the improvements thereon and that Vendees do hereby agree to keep said buildings and property in a good state of repair and not to commit or permit waste thereof; and Vendees further agree to comply with all the laws of the State of Alabama and all ordinances of the Town of Robertsedale, Alabama, relative to nuisances and not

to use said property for any illegal or illegitimate purposes, nor to assign their interest in this contract or the property covered hereby without the written consent of the Vendors endorsed thereon.

Vendees further agree to keep said property and improvements located thereon insured against fire and windstorm with extended coverage in a good and reliable insurance company in an amount not less than the amount due to Vendors hereunder and with loss-payable clause to the Vendors, as their interest may appear; and in this regard Vendees do hereby agree to purchase said policy and to regularly pay the premiums thereon and have the same deposited with Vendors during the term hereof.

Vendors hereby agree to promptly pay the indebtedness secured by the mortgage referred to above as the same becomes due and to comply in all respects with all the terms and conditions of said mortgage so as to prevent default in the same and foreclosure thereof.

FOUR:

In the event of default by Vendees in the payment of any of the amounts due hereunder or a breach by said Vendees of any of the terms and conditions hereof, in the event of which breach, this contract may at the option of the Vendors be declared null and void, the Vendors shall have the right to declare this contract forfeited and null and void and shall have the right to immediate possession of the property covered hereby without further notice to Vendees and any amounts paid by Vendees to Vendors under the terms hereof shall be retained by Vendors as rent and liquidated damages for the breach thereof.

Vendors do hereby agree to pay promptly when the same shall become due all ad valorem taxes on said property and to regularly assess such property for taxation, and in the event of the failure of the Vendors in this regard the Vendees shall have the right to pay such taxes and deduct any amount so paid from the principal amount due hereunder.

FIVE:

Upon the payment of all amounts due hereunder and more particularly set forth above and upon compliance by the Vendees with all the terms and conditions hereof the Vendors agree to execute and deliver to Vendees a good and sufficient warranty deed conveyance of all the above described real property and subject only to the mortgage referred to above, right-of-way for public roads and taxes then due on said property; and the Vendees agree to assume said mortgage and the

principal indebtedness then due thereon and to thereafter regularly pay such indebtedness and to comply with all the terms thereof and the mortgage given as security therefor.

Time is of the essence of this contract and agreement and the provisions hereof shall be binding upon the parties hereto, and to their heirs, executors and administrators.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal, in duplicate, on the day and year first above written.

Charles N. Taylor (SEAL)

Alyne A. Taylor (SEAL)  
W. B. Thompson  
Wade B. Thompson (SEAL)

\_\_\_\_\_ (SEAL)

STATE OF ALABAMA    )  
                              )  
BALDWIN COUNTY    )

I, the undersigned notary public, in and for the State of Alabama at Large, hereby certify that Alyne A. Taylor, Charles N. Taylor and W. B. Thompson, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 20th day of October, 1956.

My commission expires July 14, 1958.

James M. Bailey  
Notary Public



Com Ex 7

**MORTGAGEE CLAUSE.**  
(N. Y. Standard.)

Complan's Ex #7 No. 630

Loss or damage, if any, under this policy, shall be payable, to \_\_\_\_\_

H. V. Higley, as Administrator of Veterans Affairs, and his

(Name and Address.)

Successors in Office as such, Washington, D. C.

first mortgagee (or trustee), and to \_\_\_\_\_

(Name and Address.)

W. B. Thompson, Robertsdale, Alabama second

mortgagee (or trustee), as interest may appear, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided also, That the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon, and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

This Company reserves the right to cancel this policy at any time as provided by its terms, but, in such case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for ten days after notice to the mortgagee (or trustee) of such cancellation, and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss or damage under this policy and shall claim that, as to the mortgagor or owners, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may at its option pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of his, her or their claim.

It is hereby stipulated that this clause does not apply to personal property.\*

Attached to and forming part of Policy No. 143 of the

The Continental Insurance Company

NAME OF INSURANCE COMPANY

issued at its Robertsdale, Alabama Agency. ROBERTSDALE INSURANCE AGENCY

CITY OR TOWN

STATE

Dated March 6, 19 57. Agent.

\*NOTE TO AGENTS—This line (\*) must be voided when clause is made applicable to personal property.

CHARLES N. TAYLOR,  
 Complainant,

Vs.

W. B. THOMPSON and  
 MARGURETE THOMPSON,  
 Respondents.

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

)  
 )  
 ) February 19, 1960  
 )  
 )  
 )

CHARLES N. TAYLOR, THE COMPLAINANT, BEING FIRST DULY SWORN,  
 TESTIFIED AS FOLLOWS:

Examination by Mr. Stone.

Q. Is this Charles N. Taylor?

A. Yes sir.

Q. Are you over the age of 21 years?

A. Yes sir.

Q. Where do you now reside?

A. 8001 Palafox Highway, Pensacola, Florida.

Q. You formerly resided at Gulf Shores, didn't you?

A. That is right.

Q. Do you know W. B. Thompson and Margurete Thompson?

A. Yes sir.

Q. Are they both over the age of 21 years?

A. Yes sir.

Q. As far as you know, are they residents of the State of Alabama?

A. As far as I know.

Q. Have you been told where they live?

A. I have been told that they lived in Prichard, Alabama, but not  
 the exact address.

MR. STONE: We would like, at this time, to introduce as Com-  
 plainant's Exhibit 1, with leave to substitute a copy,  
 quitclaim deed from Alyne A. Taylor to Charles N.  
 Taylor, conveying the property, which is the subject  
 matter of this suit.

MR. STONE: We would like to introduce, as Complainant's Exhibit 2, copy - executed copy - of a contract of purchase and contract of sale between Charles N. Taylor and Alyne A. Taylor, his wife, and W. B. Thompson and Margurete Thompson,

Q. Now Charles, did you and your wife enter into this contract of sale with Mr. and Mrs. Thompson?

A. Yes sir.

Q. On October 20, 1956?

A. That is right.

Q. What did they agree to pay you for that property at that time?

A. The full sum of \$16,000.00.

Q. How much was paid down?

A. \$2,000.00

Q. And did W. B. Thompson and his wife, Margurete Thompson, go in possession of the property after the execution of that?

A. A few days afterwards.

Q. Did they default under the terms of that contract?

A. They did.

Q. Failed to pay you the payments they agreed to pay?

A. That is right.

Q. Did they also fail to take out insurance?

A. That is right.

Q. Did you declare this contract null and void in about the first part of the year, 1958?

A. That is right.

Q. At that time was my firm representing you in the matter of this contract?

A. Yes sir.

MR. STONE: We would like to introduce at this time a copy of a letter from Chason & Stone, Attorneys at Law, Bay Minette, Alabama, dated February 18, 1958 to Mr. Wade B. Thompson, at Robertsdale, Alabama.

Q. That Wade B. Thompson is one and the same person as W. B.  
(page 2)

Thompson, who is the Respondent in this cause?

A. Yes sir.

MR. STONE:@ This letter is introduced as Complainant's Exhibit 3.

Q. Now did Mr. Thompson surrender possession of that property after notification to him?

A. No he didn't.

Q. Was it necessary that you file a suit here in the Circuit Court of Baldwin County, Alabama?

A. Yes sir.

Q. Now Mr. Taylor, do you remember in March of 1959, when that suit was set for trial? -- March of last year?

A. Yes sir, March 11th.

Q. March 11th of 1959?

A. Yes sir.

Q. On the day the case was set for trial, or the day prior thereto the Attorneys for Mr. and Mrs. Thompson presented a medical certificate of some sort?

A. That's right.

Q. And the case was continued, is that correct?

A. Yes sir.

Q. Now is it your understanding and information that that case was continued under an agreement that the Respondent would attempt to raise the amount of money by which the contract was then in default?

A. Yes sir.

Q. In round figures, how much money was that?

A. \$3,000.00.

Q. Now Mr. Taylor, did Mr. Thompson raise that money?

A. He did not.

Q. Were you here subsequently - on March 23rd of last year -- March 23, 1959, with respect to that suit?

A. That is right.

Q. Was there a stipulation and agreement entered into between you and the Attorneys for Mr. Thompson, Mr. Brantley, at that time?

A. Yes s r.

Q. What was that stipulation?

A. That he was to have 10 more days to produce the money or turn the place over to me.

Q. Do you remember seeing this memorandum here that I am showing you?

A. That's the memorandum that you and his Lawyer drew up at the time when we were in conference.

MR. STONE: We would like to introduce this as Complainant's Exhibit 4.

Q. Now were there improvements located on this property at the time Mr. Thompson when in possession of it and during the time you were having the litigation here -- the first suit -- Was there a house and could he live on the property?

A. Oh yes at the time the suit was going on.

Q. Were those improvements virtually destroyed by fire?

A. They were.

Q. When was that?

A. The 25th, I believe, of March.

Q. 25th day of March?

A. Yes sir.

Q. Did Thompson move out of the property after the first?

A. Yes sir.

Q. Did you go back in possession of the property?

A. That is right.

Q. Are you now in possession of the property?

A. Through Clifford Goodrum.

Q. You, or somebody under you, have been in possession since March 26th of last year?

A. That is right.

Q. Now Mr. Taylor, did you have a Veteran's Administration transaction on this property, or had you assumed a Veterans' Administration loan on the property.?

A. Yes sir.



- Q. Under the terms of that, was there a policy of fire insurance issued?
- A. Yes sir.
- Q. I would like to show you this policy of Continental Insurance Company, being Policy No. 143. Was that the policy you had on this property at the time of the destruction by fire of the improvements?
- A. That is right.
- Q. That is the policy?
- A. That is the only policy I had.
- MR. STONE: We would like to introduce this memorandum of insurance and ask leave to substitute a copy, and have it marked Complainant's Exhibit 5, which will include the four endorsements and or attachments, which are attached to the memorandum.
- Q. Now you do not have the original of this policy, do you, Mr. Taylor?
- A. No sir.
- Q. This is the memorandum that you were furnished by the Insurance Company?
- A. That is right.
- Q. Now under your contract with the Continental Insurance Company did you request them to put a mortgage clause or endorsement in your policy in favor of W. B. Thompson ?
- A. No I did not.
- Q. Did you request them to put one there in favor of the Veteran's Administration?
- A. That was in the agreement.
- Q. You understood that would be done?
- A. I understood that.
- Q. Did you, at any time, request that W/ B. Thompson be made a party to your insurance contract?
- A. No.

MR. STONE: At this time we would like to introduce a copy of a letter from the Veteran's Administration, Regional office in Montgomery, signed by C. H. Newsom, Chief of the Loan Service and Claim Section, as Complainant's Exhibit 6.

Q. Now Mr. Taylor, have you see this copy of this letter before?

A. Before this day, yes sir.

Q. Did you know of the existence of that letter prior to the time of the fire that destroyed the improvements on this property?

A. No sir, I never heard of it before.

Q. You did not request that the Veteran's Administration write that letter?

A. No.

Q. You had no knowledge of it?

A. No.

MR. STONE: We would now like to introduce a copy of a mortgage clause attached to and forming a part of the Policy No. 143<sup>8</sup> of Continental Insurance Company, issued at Robertsdale, Alabama, on March 6, 1957, showing loss or damage under the policy payable to the Administrator of Veterans Affairs and to W. B. Thompson, and have this marked Complainant's Exhibit 7.

Q. Now Mr. Taylor, this endorsement that is marked Complainant's Exhibit 7, or mortgagee clause, did you have any notice or knowledge that this clause or endorsement was on your policy?

A. No sir, I never heard of it before the fire.

Q. Did you ask anybody to endorse your policy to that effect?

A. No sir.

Q. Did you authorize the agent of Continental Insurance Company, of Robertsdale, to put that endorsement on your policy?

A. No sir.

Q. Did you, or anybody acting for you, ever ratify the placing of that on your policy or accept it?

A. No sir.

Q. Now subsequent to this fire loss, Mr. Taylor, did you enter into a settlement agreement with the Continental Insurance Company whereby they were to pay you an amount of \$7,500.00, provided said payment would be made to you and the Administrator of Veterans Affairs?

A. Yes sir.

Q. You understand that they are entitled to receive a portion of the proceeds of this policy?

A. Yes sir.

Q. Did you or did I for you, receive a check from that Company dated July 13, 1959 in the amount of \$7,500.00, and payable to you, the Administrator of Veterans Affairs, myself, as Attorney, and W. B. Thompson?

A. That is right.

MR. STONE: We would like to introduce this as Complainant's Exhibit 8.

Q. Have you ever agreed with Continental Insurance Company that W. B. Thompson would be one of the parties under that policy?

A. No sir.

Q. And the issuance of this check to you, the Administrator of Veterans Affairs and myself and W. B. Thompson is not in accordance with your agreement with that Insurance Company?

A. No it is not.

Q. Now after receipt of that check, do you know whether any request was made of W. B. Thompson to endorse that check so as to avoid further litigation?

A. He was approached by you -

Q. You didn't personally approach him?

A. No sir.

Q. He has not endorsed that check, has he, Mr. Taylor?

A. He has not.

Q. Now do you know, Mr. Taylor, the balance due under your mortgage to the Veterans Administration?

A. It is approximately \$6,200 and something dollars.

Q. Could you give us the exact amount -- it is all right to use

the Memorandum?

A. \$6,110.78.

Q. That is as of April 30th, 1959?

A. Yes sir.

Q. You are entitled to an escrow credit of \$304.20?

A. Yes sir.

Q. Do you know how much that indebtedness has increased per day since April 30, 1959?

A. .6723 cents per day.

Q. Now Mr. Taylor, you have never deeded your interest in this property to Mr. Thompson, have you?

A. Never.

Q. The only instrument you have ever negotiated or executed with him concerning this property was the contract of sale, which was Complainant's Exhibit 2, under which he defaulted, is that correct?

A. That is correct.

-----  
C E R T I F I C A T E:

I hereby certify that the foregoing, consisting of pages 1 to 8, both inclusive, correctly sets forth a true and correct transcript of the testimony in the above styled cause, as taken by me on this day.

This 19th day of February, 1960.

  
Official Court Reporter

~~THIS DRAFT WILL NOT BE PAID~~



~~UNLESS THE CANCELLED POLICY IS ATTACHED HERETO.~~

Birmingham, Alabama  
July 13, 19 59

TO THE CONTINENTAL INSURANCE CO.

64-1

SOUTHERN DEPARTMENT, ATLANTA. ~~(NO PRO)~~  
"Policy Cancelled" (64-1)

\$7,500.00

UPON ACCEPTANCE  
PAY TO THE ORDER OF Charles N. Taylor; H. V. Higley as Administrator of Veterans Affairs and

his Successors in Office; W. B. Thompson; Norborne C. Stone, Jr., Attorney- - - - -

SEVEN THOUSAND FIVE HUNDRED and NO/100- - - - - DOLLARS

FOR LOSS WHICH OCCURRED March 25, 19 59  
TO PROPERTY DESCRIBED IN POLICY NO. 143  
ISSUED AT Robertsdale, Alabama AGENCY

PAYABLE THROUGH  
THE FIRST NATIONAL  
BANK OF ATLANTA  
ATLANTA, GA.

*COPY*

Please be sure that this copy together with proof of loss is in the Atlanta Office before draft is presented for payment.

RECEIVED  
JUL 14 1959  
LOSS DEPT.

Robertsdale Insurance Agency, Agent  
Box 248  
Robertsdale, Alabama

Copy sent: \_\_\_\_\_



THIS DRAFT WILL NOT BE PAID  
UNLESS THE CANCELLED POLICY

Birmingham, Alabama  
July 13, 19 59

IS ATTACHED HERETO  
TO THE CONTINENTAL INSURANCE CO.

64-1

SOUTHERN DEPARTMENT, ATLANTA, GA.  
"Policy Cancelled"

(NO PRO)  
(64-1)

\$ 7,500.00

UPON ACCEPTANCE  
PAY TO THE ORDER OF Charles N. Taylor; H. V. Higley as Administrator of Veterans Affairs and  
his Successors in Office; W. B. Thompson; Norborne C. Stone, Jr., Attorney- - - - -

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FOR LOSS WHICH OCCURRED March 25, 19 59  
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ISSUED AT Robertsdale, Alabama AGENCY

PAYABLE THROUGH  
THE FIRST NATIONAL  
BANK OF ATLANTA  
ATLANTA, GA.

*G. N. Feloner*  
S/P

*Chas. N. Taylor, Jr. # 8*

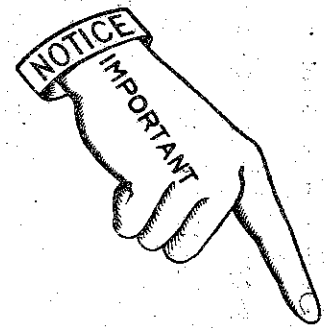
IN CONSIDERATION OF THE PAYMENT HEREBY  
MADE, THE CONTINENTAL INSURANCE COMPANY OF  
NEW YORK IS RELEASED AND FOREVER DISCHARGED  
FROM ANY FURTHER CLAIM BY REASON OF THE  
LOSS FOR WHICH THIS DRAFT IS DRAWN.

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*Com Get 95*



**IMPORTANT**  
IF THIS DRAFT IS ENDORSED BY A REPRESENTATIVE OF ANY PAYEE, A CERTIFIED COPY OF EVIDENCE OF AUTHORITY MUST ACCOMPANY DRAFT, OTHERWISE IT WILL NOT BE PAID.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. ....

..... TERM, 19....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon W. B. Thompson and Margurete Thompson

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against .....

them .....

....., Defendant.....

by Charles N. Taylor .....

....., Plaintiff.....

Witness my hand this 21th day of August 19 59

*Alvin J. Duke*

....., Clerk



HARRY J. WILTERS, JR.  
TOLBERT M. BRANTLEY  
ASSOCIATE;  
PHYLLIS S. NESSIT

LAW OFFICES OF  
**WILTERS & BRANTLEY**  
P. O. BOX 327  
BAY MINETTE, ALABAMA  
P. O. BOX 337  
ROBERTSDALE, ALABAMA

PHONES  
BAY MINETTE 5151  
ROBERTSDALE WI 7-4682

August 25, 1959

Mrs. Alice J. Duck  
Bay Minette, Alabama

Dear Mrs. Duck:

Please note my withdrawal of appearance in the case of Taylor vs Thompson and have the Sheriff serve the enclosed bill of complaint upon Mr. Thompson.

I asked Mr. Stone to have this paper served on Mr. Thompson at the time he made his motion to transfer this cause from the law to the Equity side of the court; apparently he forgot to ask you to have this done.

Sincerely Yours,

*Tolbert M. Brantley*  
Tolbert M. Brantley *by E.W.*

TMB/ew  
CC: Mr. Norborne Stone  
Bay Minette, Ala.

CHARLES N. TAYLOR, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA,  
VS. : IN EQUITY.  
W. B. THOMPSON and :  
MARGURETE THOMPSON, :  
Defendants. : CASE NO. 4693

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

D E M U R R E R

Now comes the Respondents, W. B. THOMPSON and MARGURETE THOMPSON, in the above style cause, and respectfully file this demurrer, to the bill of complaint and to each and every paragraph and clause contained therein, and assign as grounds therefor the following:

1. For that the allegations of Paragraph One based on information and belief are not properly averred to be statements of fact on such information and belief.
2. For that the averments of Paragraph Two of the complaint is but the conclusions of the pleader and is not supported by material averments.
3. For that complainant has not filed a true and correct copy of the deed by which he claims to own title to the properties described in Paragraph Two.
4. For that it affirmatively appears from the attached exhibit of a contract and agreement that the complainant does not own the described properties contained in Paragraph Two of complaint, but rather has a legal claim for an unpaid balance under the such contract.
5. For that it affirmatively appears from the attached contract and agreement that the respondents have an equity in the properties described in Paragraph Two of the complaint, which equity can only be destroyed, as a matter of law, by either a

deed from the Respondents or by foreclosure proceedings by the Complainant who holds a lien thereon by virtue of the said contract and agreement.

6. For that it affirmatively appears from the attached contract and agreement that all that the Complainant has is a lien on the real property described in Paragraph Two of the complaint to secure the payment of an unpaid balance under the said contract.

7. For aught it appears from the complaint, there is no unpaid balance due under the contract and as such, the Complainant has no further interest in and to the lands described in Paragraph Two of the complaint.

8. For that the averments in Paragraph Three of Complainant are but the legal conclusions of the pleader and not supported by material averments.

9. For that it affirmatively appears from the averments of Paragraph Three that the Respondents have paid great amounts of money to the Complainant under the said contract and agreement and that the Complainant has received such great amounts and that the Respondents, as a matter of law, have an equity in and to the lands as described in Paragraph Two by virtue of the said contracts and by virtue of the payment of valuable considerations under the terms of the said contract.

10. For that it affirmatively appears from the allegations of Paragraph Three that not only did the Respondents pay valuable considerations under the said contract to the Complainant, but also that the Respondents maintain as a part and parcel of the agreement and contract of purchase, an insurance policy with a loss payable clause to the Administrator of Veterans Affairs of the United States, to whom the Complainant was indebted by virtue of an outstanding mortgage agreement entered

into by Complainant prior to the time he sold his interest to the Respondents and that by virtue of such maintenance of such insurance contract, these Respondents paid further valuable considerations under the said contract and accumulated and accrued further Equity thereunder.

11. For that the option favoring the Complainant referred to in Paragraph Three in the event of default of the said contract and agreement, as a matter of law, constitutes an illegal act and cannot, as a matter of law, be enforced at law or in equity.

12. For that the averments of Complainant in Paragraph Four are but the conclusions of the pleader and not supported by material averments.

13. For that the averments that Respondents defaulted under the contract contained in Paragraph Four of the complaint are but the conclusions of the pleader and not supported by material averments.

14. For that the averments that the Respondents failed to provide and take out insurance as required under contract are but the conclusions of the pleader and are not supported by material allegations. And further, that such averments is in direct conflict with the averments of Paragraph Six of the complaint wherein it is stated that an insurance policy was in effect at the time of an alleged loss and that \$7,500.00 is due to a beneficiary under this said policy as a result of the said loss.

15. For that it affirmatively appears from Paragraph Five of the Complaint that the Respondents did maintain the said insurance policy and were recognized as beneficiaries thereunder by the agent which wrote the Policy, the Robertsdale Insurance Agency of Robertsdale, Alabama, which, recognizing the interest

of these Respondents, actually left off as Beneficiaries under the said policy, the Complainant.

16. For that it affirmatively appears from the averments of Paragraph Four that the reason that the Respondents vacated the properties was because of a fire loss which virtually destroyed their premises and not because of the exercising of a superior right to possession of the properties by the Complainant.

17. For that it affirmatively appears from the averments that there was a conflict in the interpretations of the said agreement and contract between the Complainant and the Respondents and that such failure to make payments thereunder by Respondents did not come about until after such conflict was in existence; and for aught that appears, the non-making of payments by Respondents under the contract were agreed to by the Complainant, and waived until the conflict had been resolved and determined between the parties.

18. For that it affirmatively appears from the complaint and from the attached copy of agreement and contract that as a part and parcel of the agreement, the Respondents were taking on and did agree to and did pay off a portion of an existing mortgage indebtedness running from the Complainant to the Administrator of Veterans Affairs in this, that payments made by the Respondent under their agreement were applied directly to that said mortgage agreement and that as such, it affirmatively appears that these Respondents were building and developing and becoming the owners of a greater equity in the property described in the complaint with the making of each payment.

19. For that it is a matter of judicial knowledge from the averments contained in the complaint that, had the Complainant made the payments on the outstanding mortgage indebtedness

to the Administrator of Veterans Affairs, he would have increased his equity in and to the premises and that, in as much as these Respondents made the payments for him under their agreement, they have, by virtue of the contract which they had made in writing, inured to the same benefits which would have inured to the Complainant had he made the payments.

20. For it affirmatively appears from Paragraph Five of the complaint that an insurance policy was in existence at the time of the alleged loss contained in Paragraph Four of the complaint, a time when the Respondents were in the actual peaceable, open, notorious, and adverse possession to the said lands, excepting that they would recognize the claim of the Complainant for an unpaid balance, and that the insurance policy which was in effect at that time was such as a result of the payments made by these Respondents or under the alleged contract, thus affirmatively showing to this Court that they were not in default under their contract at that time.

21. For aught that appears from Paragraph Five, that the loss payable under the alleged contract of insurance which was kept in force by payments made by these Respondents, after payment had been made to the Administrator of the Veterans Affairs, was then payable to these Respondents.

22. For aught that appears from Paragraph Five, these Respondents were considered as mortgagors by virtue of their contract and agreement and under the insurance policy in effect as a result of their payments of premiums.

23. For that it affirmatively appears from Paragraph Five that these Respondents were considered as mortgagors by all interested parties in the particular transaction and in relation to any outstanding liens against the properties described in these proceedings and by virtue of the said contract and agreement.

24. For that it affirmatively appears from Paragraph Five and from the complaint taken as a whole that the Complainant considered these respondents as mortgagors until such times there was a loss and they deserted the premises and had a disagreement with him on the matter of insurance, and that thereafter, he has made every effort to avail himself of credit under the said insurance contract and of all the payments made on principal and interest under the said contract and agreement, and at the same time, held title the real properties described in these proceedings free and clear from any claim of these Respondents, and that such action on the part of the Complainant shows conclusively to this Court that Complainant does not have clean hands and does not offer to do equity.

25. For that the propositions of the Complainant throughout the complaint conclusively show to this Court that he seeks an unconscionable end to be visited upon these Respondents.

26. For that the allegations of Paragraph Six of the complaint are but the conclusions of the Complainant and are not supported by material averments.

27. For that the averments in Paragraph Four to the effect that certain parties have agreed that these Respondents were at one time or are not in default under the terms of the agreement are not the legal equivalent of an averment that these Respondents have had their interest foreclosed upon and that the time for equity of redemption has run against them conclusively and does not have the effect of destroying their equities in the property.

28. For aught it appears any agreement referred to in Paragraph Four relative to default or possession of the property was not authorized by these Respondents or, having been authorized, were done so without full realization and understanding

of their legal and equitable rights under the Constitution and the laws of Alabama and that any such agreements are therefore not binding.

29. For aught that appears, the agreements referred to in Paragraph Four were not consented to by these Respondents.

30. For that the averments of Paragraph Six of the Complaint are but the conclusions of the pleader and not supported by material averments.

31. For that it affirmatively appears from Paragraph Six of the complaint that these Respondents had and do have an equitable interest in and to the real properties described in these proceedings and that they have the legal claim to have the \$7,500.00 insurance applied to their credit under the said contract.

32. For that it affirmatively appears from Paragraph Six of the complaint that these Respondents, by their refusal to endorse the said insurance benefits have conclusively shown that they do not go along with the alleged agreements of Paragraph Four and elsewhere contained in the complaint and that they are insisting upon their legal and equitable rights to the equities in the real properties which they, by their payments both of principal, interest, and insurance premiums, have become entitled, as a matter of law.

33. For aught it appears from the averments of Paragraph Six, these Respondents have every legal and equitable right to take the positions which they have taken and to insist upon having credit to their equities in the said properties and of an assurance toward that end before they execute any endorsement on the said benefits under the said insurance policy.



34. For that it affirmatively appears from the Complaint as a whole and from the attached contract and agreement that these Respondents made payments to the Complainant which were broken down by the Complainant in such way that he applied a portion of the said payments toward a principal balance due and a portion of said payments to the credit of interest on an outstanding principal balance due and that as such, the Complainant has recognized the right of these Respondents to the Equities which they have developed under the terms of the said contract and that by such acceptance of said payments and such applications thereof, he has acquiesced in and approved the contention and the fact that as a matter of law they have become entitled to an Equity in the said premises and he is therefore now estopped from denying their Equities in the said premises.

35. For that the averments of Paragraph Seven of the Complaint are but the conclusions of the Pleader and are not supported by material averments.

36. For that the averments of Paragraph Seven are in direct conflict with the attached contract and agreement and the other averments of the Complaint which tend to show conclusively and as a matter of law that these Respondents did and do have a right, title, claim, demand, Equity and interest in the said properties which would warrant payment to them of any sums under the said Insurance Policy.

37. For that the averments of Paragraph Eight of the Complaint are but the conclusions of the Pleader and are not supported by material allegations.

38. For that it affirmatively appears from Paragraph Eight when read in connection with and in conjunction with the attached contract and agreement that the alleged irreparable

damages", claimed to be sustained by Complainant, are also being sustained by the Respondents who have an equity in the land that is described by virtue of the agreement and who have the same rights, privileges, defenses and claims as does the Complainant, all as a result of the Complainant executing the said agreement and contract.

39. For that it affirmatively appears from the contract attached to the complaint and from the averments contained in the complaint that the total purchase price was \$16,000.00 and that toward the said purchase price these Respondents paid \$2,000.00 cash, in excess of \$3,000.00 on the principal by virtue of the monthly or installment payments made by them under the said purchase agreement, or a total of in excess of \$5,000.00 cash paid by them directly to the Complainant; that in addition to these payments, they are entitled to a credit for the full amount of the fire insurance loss, to-wit, \$7,500.00 and that upon the application of this amount to their purchase agreement and when adding the same to the payment made by them of the aforesaid, they will have paid in excess of \$12,500.00 to the Complainant under the said contract, leaving a net balance to the claim by him of no more than \$3,500.00, and that in as much as the complaint and the attached exhibits reflect such a fact, it affirmatively appears that these Respondents have a far greater equity in the said real properties than does the Complainant and that a most grave injustice, unconscionable act, and irreparable damage will be made and suffered upon these Respondents if Complainant's prayer is granted.

40. For that it affirmatively appears from the complaint and the attached Exhibits that these Respondents have an equity in the said real properties valued in excess of \$12,500.00 and that the Complainant's equity therein is no more than \$3,500.00.

41. For that Complainant is not entitled to the relief

prayed for in Paragraph One of his prayer for relief in this, that he has filed no material averments which would as a matter of law or in equity entitle him to such relief.

42. For that it affirmatively appears from the complaint and the attached exhibits that Complainant is not entitled to the relief prayed for in Paragraph One of his prayer for relief.

43. For that the Complainant is not entitled to the relief prayed in Paragraph Two of his prayer for relief in this, that there are no material averments made by the Complainant to sustain such prayer for relief.

44. For that it affirmatively appears from the complaint and the attached exhibits that not only may the Complainant and the Veterans Administration be entitled to credit to any proceeds under the said policy of insurance but, also that these Respondents are entitled thereto and that therefore Complainant's prayer for relief in Paragraph Two of such prayer is not sustained by his averments.

45. For aught it appears from the complaint and the attached Exhibits, the Complainant has never foreclosed any interest of these Respondents in said lands under the terms of the contract and agreement by which they obtained the equities they have in the said lands.

46. For aught it appears from the complaint and the attached exhibits the Complainant is in the illegal occupancy and possession of the premises, having obtained them without legal and due process of law.

47. For that it affirmatively appears from the averments of the complaint and the attached exhibits that Complainant's one effort to obtain the legal possession of the said premises,

to-wit, a suit in ejectment in the law side of this H<sup>o</sup>nerable Court, was dismissed on the Motion of the Complainant and that, it having been dismissed, Complainant now finds himself in the unlawful possession of the said property.

48. For that the relief prayed for in Paragraph Three of Complainant's prayer for relief is not sustained by material averments by Complainant and cannot be granted.

49. For that it affirmatively appears from the complaint and the exhibits attached that there has been no foreclosure of the legal rights of these Respondents and that there are no averments contained in the said Bill or in the said attached exhibits which would sustain the entering of an order as prayed for in Paragraph Three of the prayer for relief.

50. For aught it appears the Complainant has an adequate remedy at law.

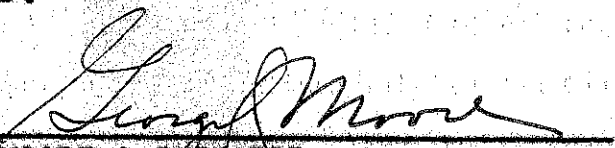
51. For that there is no equity in the bill to support the Complainant in the relief prayed for.

52. For that the Complainant does not offer to do equity at any place within his Bill of Complaint.

53. For aught it appears the Complainant has unclean hands in these proceedings and may not proceed until he has purged himself.

WHEREFORE, these Respondents having demurred to the complaint and attached exhibits and prayer for relief, now respectfully pray that this Honorable Court will enter an order sustaining these demurrers and denying the relief prayed for.

RESPECTFULLY SUBMITTED.

  
MOORE & SHINAGLT  
Solicitors for Respondents  
619 Annex 1st National Bank Bldg.

*extra copy*

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**FILED**  
OCT 21 1959  
ALICE J. DUCK, CLERK  
REGISTER

CHARLES N. TAYLOR,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	
	X	BALDWIN COUNTY, ALABAMA
W. B. THOMPSON and	X	
MARGURETE THOMPSON,	X	LAW SIDE
Defendants.	X	

MOTION TO TRANSFER TO EQUITY

Comes now the Plaintiff in the above style cause, by his attorneys, and moves this Honorable Court to transfer this cause from the law side of the Court to the Equity side of the Court and as grounds therefor, says as follows:

1. That this suit originated in an ejectment action filed by the Plaintiff against the Defendants for the recovery of the following described real property, together with the improvements thereon, situated in Baldwin County, Alabama, viz:

PARCEL A. Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 1954 feet, run thence West 700 feet to a point on the East line of U. S. Highway 90, said point being located 688 feet due North of the East and West half section line of said Section 36, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville & Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; thence run West 393.3 feet to the East margin of U. S. Highway 90; run thence in a South-westerly direction along said Highway 224 feet to the point and place of beginning.

PARCEL B. Beginning at a point on the East line of Highway 90 that is Nine Hundred and Twelve (912) feet due North of the East and West Half Section line of Section 36, Township 5 South, Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less to the East line of Highway 90; thence run South twenty-five (25) feet more or less to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres, more or less, and lies in Section 36, Township 5 South, Range 3 East, Baldwin County, Alabama.

2. That the Defendant originally went into the possession of said property under a contract of sale, a copy of which is attached hereto and marked "Exhibit A". That on, to-wit: the 1st day of January, 1958, the Defendant defaulted under said contract and thereby forfeited all of his equity therein and his right to the pos-

session thereof. That said contract was declared null and void by the Plaintiff and the Defendants had notice of such declaration by the Plaintiff and even though said contract was declared null and void and the Defendants had forfeited all of their right, title and interest in and to the property therein described, they refused to surrender the possession of said property and this action was instituted against them to recover possession of such land.

3. That this action was set for trial on March 11, 1959, but on the day prior thereto the attorneys for the Defendants produced a certificate that the Defendant Wade B. Thompson was ill and would be physically unable to attend court on March 11, 1959, and the case was then continued by agreement of counsel with the understanding that the Defendants would attempt to raise the amount of money by which the contract was in default. On March 23, 1959, it was stipulated by and between the parties to this cause, acting by and through their respective attorneys of record that the Defendants were, in fact, in default under said contract and that unless they paid to the Plaintiff all amounts due him under said contract that he would surrender the possession of said property by March 28, 1959. That on March 25, 1959, the improvements located on said property were virtually destroyed by fire and the Defendants left said property and the Plaintiff went into the possession of the same and he is now in possession of said property and has been since March 26, 1959.

4. On December 28, 1956, the Plaintiff Charles N. Taylor entered into a contract of insurance with The Continental Insurance Company of New York, being policy #143 written by Robertsdale Insurance Agency as agent for said insurance company in the amount of \$7,700.00 with a loss payable clause to the Administrator of Veterans Affairs and his successors in office as such under the terms of a mortgage which the Veterans Administration had on said property at that time and has on the said property at this time. That the original of such contract of insurance is in the possession of the Veterans Administration in its regional office in Montgomery, Alabama. That on January 15, 1957, the Veterans Administration, acting by and through C. H. Newsome, wrote a letter to Robertsdale Insurance Agency a copy of which is attached herewith and marked "Exhibit B" and by

reference made a part hereof as though fully incorporated herein and as a result of said letter an endorsement was attached to said policy without the knowledge or consent of the Plaintiff (the assured in said policy) by the Continental Insurance Company, acting by and through Robertsdale Insurance Agency of Robertsdale, Alabama, which provided that loss or damage, if any, under said policy, shall be payable to H. V. Higley, as Administrator of Veterans Affairs, and his successors in office as such, Washington D. C., first mortgagee (or trustee), and to W. B. Thompson, Robertsdale, Alabama, as interests may appear.

5. On July 13, 1959, under a settlement agreement entered into by and between the Plaintiff Charles N. Taylor and The Continental Insurance Company whereby the said Charles N. Taylor was to receive as the proceeds of said policy the sum of \$7,500.00, the said The Continental Insurance Company issued its draft in Birmingham, Alabama, in the sum of \$7,500.00 payable to Charles N. Taylor; H. V. Higley, as Administrator of Veterans Affairs and his successors in office; W. B. Thompson; Norborne C. Stone, Jr., attorney, for and on account of the loss which occurred on March 25, 1959, to the property hereinabove described and protected by the terms of said policy of insurance. That the Plaintiff has requested the said Wade B. Thompson to endorse said check but he has failed and refused to do so and thereby avoid the necessity of further litigation.

6. That the Defendant Wade B. Thompson has no right, title, claim, demand, equity or interest in said property which would warrant the payment to him of any sum or sums under the terms of said policy of insurance.

7. That the present balance due under the terms of the mortgage from the Plaintiff to the Veterans Administration is \$6,110.78 less an amount to be credited to the Plaintiff in an escrow account of \$304.20, making a net balance of \$5,806.50. That this amount has increased at the rate of .6723 cents per day since April 30, 1959, and unless this cause is transferred to Equity Court and a decree there entered declaring that the loss, if any, payable under the terms of the above noted policy should be payable to the Plaintiff and the Administrator of Veterans Affairs and his successors in office as such that this Plaintiff will be irreparably damaged in that he will be unable to collect the amount due him under said policy and by the terms thereof.



WHEREFORE, the premises considered the Plaintiff respectfully prays that this motion will be set down for hearing and that upon a hearing thereof that this Honorable Court will transfer this cause from the Law Side of the Circuit Court of Baldwin County, Alabama to the Equity Side thereof for further proceedings therein.

Respectfully submitted,

CHASON & STONE

By:

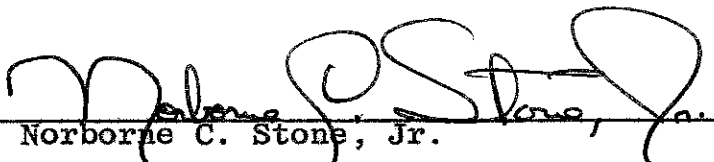
  
Attorneys for Plaintiff

STATE OF ALABAMA

BALDWIN COUNTY

Before me, HARRY M. D'OLIVE, a Notary Public, in and for said County in said State, personally appeared Norborne C. Stone, Jr., who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is Norborne C. Stone, Jr., and he is one of the attorneys for the Plaintiff in that certain cause now pending in the Law Side of the Circuit Court of Baldwin County, Alabama, wherein Charles N. Taylor is the Plaintiff and Wade B. Thompson and Margurete Thompson are the Defendants. That he signed the foregoing motion and he has personal knowledge of the facts therein alleged and that said facts are true and correct.

  
Norborne C. Stone, Jr.

Sworn to and subscribed before me  
on this the 5<sup>th</sup> day of August, 1959.

  
Notary Public, Baldwin County, Alabama

The above and foregoing motion having been called to the attention of the court and the court having considered the same is of the opinion that the same should be set down for hearing and that notice of the filing thereof and of the day set for hearing should be given to Messrs. Wilters & Brantley as attorneys of record for the Defendants in the above styled cause.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that said motion be, and the same is hereby, set down for hearing on the 10 day of August, 1959<sup>9 AM</sup>, and that notice of the filing thereof and of the day set for hearing thereof be given to Wilters & Brantley, attorneys of record for the Defendants by the Register by mailing to them a copy of said motion and this order.

Done this the 5 day of August, 1959.

Hubert M. Hise  
Circuit Judge

STATE OF ALABAMA

BALDWIN COUNTY

THIS CONTRACT AND AGREEMENT, made and entered into this 20th day of October, 1956, by and between CHARLES N. TAYLOR and ALYNE A. TAYLOR, his wife, hereinafter referred to as Vendors, and W. B. THOMPSON, and MARGURETE THOMPSON, his wife, hereinafter referred to as Vendees,

WITNESSETH:

That for and in consideration of the mutual covenants herein contained and of the sum of Two Thousand (\$2,000.00) Dollars this day in cash in hand paid by the Vendees to the Vendors and of the further sums as hereinafter set forth, BE IT MUTUALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

ONE:

The Vendees do hereby agree to buy from the Vendors and the Vendors do hereby agree to sell to the Vendees, upon the terms and subject to the conditions hereinafter set forth, the following described real property situated in County of Baldwin, State of Alabama, to-wit:

PARCEL A: Begin at the Northeast corner of Section Thirty-six, Township Five South, Range Three East, run thence South 195<sup>4</sup> feet, run thence West 700 feet to a point on the East line of U. S. Highway #90, said point being located 688 feet due North of the East and West half Section line of said Section Thirty-six, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville and Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; thence run West 393.3 feet to the East margin of U. S. Highway #90; run thence in a Southwesterly direction along said Highway 22<sup>4</sup> feet to the point and place of beginning.

PARCEL B: Beginning at a point on the East line of Highway #90 that is Nine Hundred and twelve (912) feet due North of the East and West half Section line of Section 36, Township 5 South, of Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less to the East line of Highway 90; thence run South twenty-five (25) feet more or less to the point of beginning, being a strip of land 25 feet wide extending 150 feet East from the East line of Highway 90. Said lot contains .086 acres more or less and lies in Section 36, Township Five (5) South, Range Three (3) East, Baldwin County, Alabama.

together with all and singular the rights, benefits, privileges, improvements, tenements, hereditaments and appurtenances unto the same belonging or in anywise appertaining.

TWO:

The Vendees do hereby agree to pay to the Vendors, their heirs and assigns, for and as the purchase price of the above described property

the sum of Sixteen Thousand (\$16,000.00) Dollars of which the sum of Two Thousand (\$2,000.00) Dollars has this day been paid and receipt of which is hereby acknowledged by the Vendors; the balance sum in the amount of Fourteen (\$14,000.00) Thousand Dollars to be paid in monthly installments of One Hundred (\$100.00) Dollars per month, plus interest at the rate of Four (4%) per cent per annum on the unpaid balance remaining due from time to time until paid in full, and, provided however, that as a part of the consideration herein stated, the Vendees shall assume the mortgage indebtedness set forth in Paragraph THREE below and in accordance with the terms named therein. The Vendees shall pay the monthly installments due on said indebtedness during the life of this contract. All payments made by the Vendees to the Vendors shall be applied first to the interest then due and the balance shall be applied to the principal amount due hereunder and it is expressly understood and agreed that the Vendees shall have the right on the due date of any installment hereof, to pre-pay the entire indebtedness or any part thereof not less than the amount of one installment and such payments shall be in multiples of One Hundred (\$100.00) Dollars each.

THREE:

It is further understood and agreed that the parcel of property described in PARCEL A, above, together with the improvements thereon, is subject to a mortgage executed by the Vendors herein to Carl R. Gray, Jr. as Administrator of Veterans Affairs, an Officer of the United States of America, and his successors in office as such. And Vendees herein do hereby expressly agree to pay to the Vendors, his heirs and assigns, in addition to the amounts hereinabove provided for, an amount equal to the amount by which the principal indebtedness, secured by the said mortgage, is reduced from the date hereof to the date on which Vendees shall become entitled to demand a good and sufficient warranty deed to the above described property.

It is further understood and agreed by the parties hereto that the Vendors shall have the right to immediate possession of the land described above and the improvements thereon and that Vendees do hereby agree to keep said buildings and property in a good state of repair and not to commit or permit waste thereof; and Vendees further agree to comply with all the laws of the State of Alabama and all ordinances of the Town of Robertsdale, Alabama, relative to nuisances and not

to use said property for any illegal or illegitimate purposes, nor to assign their interest in this contract or the property covered hereby without the written consent of the Vendors endorsed thereon.

Vendees further agree to keep said property and improvements located thereon insured against fire and windstorm with extended coverage in a good and reliable insurance company in an amount not less than the amount due to Vendors hereunder and with loss-payable clause to the Vendors, as their interest may appear; and in this regard Vendees do hereby agree to purchase said policy and to regularly pay the premiums thereon and have the same deposited with Vendors during the term hereof.

Vendors hereby agree to promptly pay the indebtedness secured by the mortgage referred to above as the same becomes due and to comply in all respects with all the terms and conditions of said mortgage so as to prevent default in the same and foreclosure thereof.

#### **FOUR:**

In the event of default by Vendees in the payment of any of the amounts due hereunder or a breach by said Vendees of any of the terms and conditions hereof, in the event of which breach, this contract may at the option of the Vendors be declared null and void, the Vendors shall have the right to declare this contract forfeited and null and void and shall have the right to immediate possession of the property covered hereby without further notice to Vendees and any amounts paid by Vendees to Vendors under the terms hereof shall be retained by Vendors as rent and liquidated damages for the breach thereof.

Vendors do hereby agree to pay promptly when the same shall become due all ad valorem taxes on said property and to regularly assess such property for taxation, and in the event of the failure of the Vendors in this regard the Vendees shall have the right to pay such taxes and deduct any amount so paid from the principal amount due hereunder.

#### **FIVE:**

Upon the payment of all amounts due hereunder and more particularly set forth above and upon compliance by the Vendees with all the terms and conditions hereof the Vendors agree to execute and deliver to Vendees a good and sufficient warranty deed conveyance of all the above described real property and subject only to the mortgage referred to above, right-of-way for public roads and taxes then due on said property; and the Vendees agree to assume said mortgage and the

principal indebtedness then due thereon and to thereafter regularly pay such indebtedness and to comply with all the terms thereof and the mortgage given as security therefor.

Time is of the essence of this contract and agreement and the provisions hereof shall be binding upon the parties hereto, and to their heirs, executors and administrators.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal, in duplicate, on the day and year first above written.

Charles M. Taylor (SEAL)

Alyne A. Taylor (SEAL)

W. B. Thompson  
Wade B. Thompson (SEAL)

\_\_\_\_\_ (SEAL)

STATE OF ALABAMA }  
BALDWIN COUNTY }

I, the undersigned notary public, in and for the State of Alabama at Large, hereby certify that Alyne A. Taylor, Charles M. Taylor and W. B. Thompson, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 20th day of October, 1956.  
My commission expires July 14, 1958.

James M. Bailey  
Notary Public

VETERANS ADMINISTRATION  
Regional Office  
400 Lee Street  
Montgomery, Alabama

C O P Y

C O P Y

Your File reference:

Robertsdale Insurance Agency  
Robertsdale,  
Alabama

In Reply Refer to: 3022/4BD  
DL-1115-Ala. 1  
TAYLOR, Charles N.

Gentlemen:

Since our letter to you dated January 7, 1957, requesting an endorsement correcting the mortgagee clause, other developments have materialized.

It is understood that this property was purchased by W. B. Thompson in November, 1956. The purchase was made under a lease sale contract, at a sales price of \$14,000.00. Inasmuch as the insurance policy is for only about half of this amount, it appears that Mr. Thompson might want separate insurance to protect his interest in the property. He made a substantial down payment on this property. He appears to be a capable business man. It is understood that there might be a possible second mortgage on this property. It is believed that you should issue a policy covering the interest of all parties concerned. In any event, please issue a current policy covering all parties of interest and forward it to this office with appropriate endorsement as follows:

"H. V. Higley, as Administrator of Veterans Affairs, and his successors in office as such."

Yours very truly,

S/C. H. NEWSOM  
Chief, Loan Service and Claims Section

EXHIBIT B



CHARLES N. TAYLOR,

Plaintiff,

versus

W. B. THOMPSON, et al.,

Defendants,

X  
X  
X  
X  
X  
X  
X  
X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

ORDER TRANSFERRING CAUSE TO EQUITY

This day came the parties by their attorneys in open court and the Court having considered the motion heretofore filed in this cause by the Plaintiff to transfer this cause from the law side of this Court to the Equity side thereof, and the arguments in respect thereto, is of the opinion that said motion should be granted; it is, therefore

ORDERED, ADJUDGED and DECREED by the Court that this cause be, and it is hereby, transferred from the law side of the Circuit Court of Baldwin County, Alabama, to the equity side thereof.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff file in the Equity side of the Court a bill of complaint and that further proceedings be had thereon.

DONE this the 17<sup>th</sup> day of August, 1959.

Hubert M. Hall  
Circuit Judge

STATE OF ALABAMA )

QUIT CLAIM DEED

BALDWIN COUNTY )

KNOW ALL MEN BY THESE PRESENTS: That I, ALYNE A. TAYLOR, for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable considerations in hand paid by CHARLES N. TAYLOR, the receipt of which is hereby acknowledged, do hereby remise, release, quit-claim and convey unto the said Charles N. Taylor all my right, title, interest and claim in and to the following described real property located in the County of Baldwin, State of Alabama, to-wit:

PARCEL A: Begin at the Northeast corner of Section Thirty-Six, Township Five South, Range Three East, run thence South 195<sup>4</sup> feet, run thence West 700 feet to a point on the East line of U. S. Highway #90, said point being located 688 feet due North of the East and West half Section line of said Section Thirty-six, and which point is the point of beginning; run thence East 397 feet, more or less, to the West line of the right-of-way of the Louisville and Nashville Railroad; run thence North 27 degrees 15 minutes West 251.5 feet along the West margin of said right-of-way to a point; run thence West 393.3 feet to the East margin of U. S. Highway #90; run thence in a Southwesterly direction along said Highway 22<sup>4</sup> feet to the point and place of beginning.

PARCEL B: Beginning at a point on the East line of Highway #90 that is Nine Hundred and Twelve (912) feet due North of the East and West half Section line of Section 36, Township 5 South, of Range 3 East, and running thence East one hundred and fifty (150) feet along the North line of Emery A. Racine's lot; thence run North twenty-five (25) feet; thence run West, and parallel to said Racine's North line, one hundred fifty (150) feet, more or less, to the East line of Highway 90; thence run South twenty-five (25) feet more or less to the point of beginning, being a strip of land 25 feet wide extending 150 feet east from the East line of Highway 90. Said lot contains .086 acres more or less and lies in Section 36, Township Five (5) South, Range Three (3) East, Baldwin County, Alabama.

together with all and singular the rights, privileges, tenements and appurtenances thereunto belonging or in anywise appertaining. TO HAVE AND TO HOLD the same unto the said grantee, Charles N. Taylor, his heirs and assigns, forever.

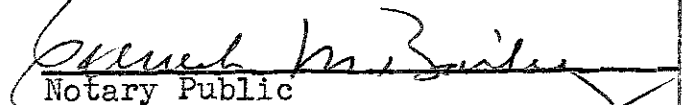
IN WITNESS WHEREOF, the grantor, Alyne A. Taylor, has hereunto set her hand and seal on this the 15<sup>th</sup> day of February, 1956.

Alyne A. Taylor (SEAL)  
ALYNE A. TAYLOR

STATE OF ALABAMA    )  
                              )  
BALDWIN COUNTY        )

I, the undersigned notary public in and for the State of Alabama at Large, do hereby certify that Alyne A. Taylor, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 15<sup>th</sup> day of February, 1956.  
My commission expires July 14, 1958.

  
Notary Public

CHARLES N. TAYLOR,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY, ALABAMA,
VS.	:	IN EQUITY.
W. B. THOMPSON and	:	
MARGURETE THOMPSON,	:	
Defendants.	:	CASE NO. <u>4673</u>

MOTION TO WITHDRAW

Now comes the law firm of MOORE & SHINAULT, by and through George J. Moore, one of its partners, and respectfully moves this Honorable to permit him and his said firm to withdraw as Counselor for Wade B. Thompson and Margurete Thompson, and assigns as grounds the following:

1. The said attorney and the said law firm has been unable to obtain any cooperation from Wade B. Thompson or Margurete Thompson, even though numerous letters have been written to Mr. Thompson requesting him to come to the office for the purpose of discussing the matter further.

2. For that Wade B. Thompson refuses to come to the office of MOORE & SHINAULT and to discuss his own case and refuses to cooperate with the said law firm and its attorneys so that it is impossible for them to properly represent the interest of their client to the best of their abilities.

3. For that Wade B. Thompson has been advised by letter addressed to his last known address to the effect that this Motion would be filed and that the law firm of MOORE & SHINAULT, and more particularly, George J. Moore, were going to withdraw lest he show some cooperative spirit, which he has failed to do so.

WHEREFORE, the said George J. Moore for the law firm of MOORE & SHINAULT respectfully moves the Court to allow him and the said firm to withdraw as Counselor for Wade B. Thompson and Margurete Thompson, Mrs. Thompson, Respondents in the above styled cause, and that service of this Motion be had on the said Respondents at the only address now available to the said

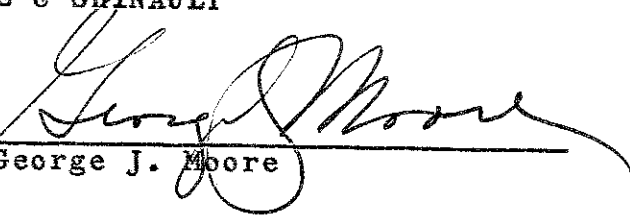
law firm, to-wit:

Wade B. Thompson and Margurete Thompson  
c/o Wilson Avenue Furniture Company  
101 N. Wilson Avenue  
Prichard, Alabama.

Thereafter, service having been perfected on these Respondents, that an order be entered in this cause allowing George J. Moore and the firm of MOORE & SHINAULT to withdraw as Counsel.

RESPECTFULLY SUBMITTED:

MOORE & SHINAULT

BY:   
George J. Moore

FILED: \_\_\_\_\_

FILED

FEB 11 1960

ALICE J. DUCK, CLERK  
REGISTER

Register