

Grant

1. I charge you that you must find for the defendants.

Refused
Jeffrey M. Moskowitz
Judge

Grant

2. I charge you that you must find for the defendant,
clay Grant.

Refused
Selfair Washington
Judge

Grant

4. I charge you that if you believe the evidence you must find for the defendant, Clay Grant.

*Refused
J. Fair J. Malibone
Judge*

Grant

5. I charge you that you must find for the defendant,
Clay Grant, on his cross claim against the co-defendant, Robinson-
Allen & Associates, Inc.

Refused,
J. J. J. Washburn
Judge.

Grant

6. I charge you that if you believe the evidence you must find for the defendant, Clay Grant, on his cross claim against the co-defendant, Robinson-Allen & Associates, Inc.

Refused
Jurying. Madison
Judge.

Grant

7. I charge you that if you are reasonably satisfied from the evidence that the plaintiffs did not purchase the property involved in this case in reliance on the admittedly erroneous survey which has been introduced into evidence, then you must find for the defendants, *Robinson and Allen*

Jesse
Jessie M. Mathews
Judge.

Grant

8. I charge you that if you are reasonably satisfied from the evidence that the plaintiffs would have purchased this property even if they had known the true location of the driveway in question, then you must find for the defendants.

Given
Jesse J. [unclear]
Judge.

Grant

9. I charge you that the plaintiffs are not entitled to recover anything from the defendants unless you are reasonably satisfied from the evidence that the plaintiffs have been damaged in some way and that that damage is the result of the plaintiffs having acted in reliance on a misrepresentation by the defendants.

Seen,
J. J. Fairing, Markson
Judge

Grant

10. I charge you that there is no legal redress, available to the plaintiffs unless they have been injured or damaged in some way by the defendants, and that unless you are reasonably satisfied from the evidence that the defendants have damaged or injured the plaintiffs, then you must find for the defendants.

Given
Jeffery J. Markham
Judge

Grant

11. The Plaintiffs have charged the defendants in this case with fraud, and I charge you that insofar as this case is concerned the legal elements of fraud are these: There must have been a misrepresentation of a fact by defendants to plaintiffs; the fact so misrepresented must have been a material fact; the plaintiffs must have relied in some way on the misrepresentation; and that reliance must have caused the plaintiffs some injury or damage. I further charge you that in order for there to have been a legal fraud in this case you must be reasonably satisfied from the evidence that the plaintiffs have proved each and every one of these elements I have mentioned to you. I further charge you that if just one of these elements is missing, that if you are not reasonably satisfied from the evidence that any misrepresentation occurred, or that if there was a misrepresentation it was immaterial, or was not relied on by the plaintiffs, or did not injure or damage the plaintiffs, then you cannot find for the plaintiffs and must find for the defendants.

*Deliver
Deliver of. marshbury judge*

Grant

12. I charge you that under the law of Alabama a written contract is enforceable as written by both the buyer and the seller, so long as all conditions stated in the contract are fulfilled.

Refused,
Jefferson J. Madison
Judge

Grant

13. I charge you that unless you are reasonably satisfied from the evidence that the defendants misrepresented some material fact to the plaintiffs before they signed the sales contract on June 10, 1974, and that that misrepresentation induced the plaintiffs to enter into the contract when they would not otherwise have done so, then you cannot find for the plaintiffs.

Refused:
Jeffrey J. Markham
Judge.

DEFENDANTS, McNEIL ROBINSON AND JAMES B. ALLEN, JR., JURY CHARGE NO. 1

I charge you that if you are reasonably satisfied from the evidence that the Defendants, McNeil Robinson and James B. Allen, Jr., did not misrepresent a material fact to the Plaintiffs, then you cannot find said Defendants guilty of legal fraud.

Denied _____

Granted _____

J. J. Mashburn
Trial Judge

DEFENDANTS, McNEIL ROBINSON AND JAMES B. ALLEN, JR., JURY CHARGE NO. 2

If you are not reasonably satisfied from the evidence that the Defendants, McNeil Robinson and James B. Allen, Jr., innocently or by mistake represented a material fact to the Plaintiffs, thereby inducing action by the Plaintiffs to their damage, then the Defendants would not be guilty of legal fraud and your verdict should be for said Defendants.

DENIED _____

GRANTED _____

J. J. Madhavan
Trial Judge

DEFENDANTS, McNEIL ROBINSON AND JAMES B. ALLEN, JR., JURY CHARGE NO. 3

If you are reasonably satisfied from the evidence that the Defendants, McNeil Robinson and James B. Allen, Jr., innocently or by mistake misrepresented a material fact to the Plaintiffs, but you are not reasonably satisfied from the evidence that such misrepresentation induced the Plaintiffs to purchase the lot described as Lot 162 of Cypress Park, then said Defendants would not be guilty of legal fraud and you should find a verdict for the Defendants.

DENIED _____

GRANTED _____

Joseph A. Madole
Trial Judge

DEFENDANTS, McNEIL ROBINSON AND JAMES B. ALLEN, JR., JURY CHARGE NO. 4

If you are reasonably satisfied from the evidence that the Defendants, McNeil Robinson and James B. Allen, Jr., or the Defendant, Clay Grant, innocently or by mistake represented a material fact to the Plaintiffs thereby inducing the Plaintiffs to purchase Lot 162 of Cypress Park proximately resulting in damage to the Plaintiffs, then that particular defendant or defendants would be guilty of legal fraud and you should name which defendant or defendants is guilty of legal fraud and assess the damage to that particular defendant or defendants.

DENIED _____

GRANTED ✓

J. Blair A. Maddebaum
Trial Judge

PLAINTIFF'S REQUESTED CHARGE NO. /

Ladies and Gentlemen of the jury I charge you that under Alabama law, the good faith of the Defendant in making what proves to be a material misrepresentation is immaterial if the Plaintiff acted on such misrepresentation to his injury.

Judge
Sefer J. Marshall
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 2

Ladies and Gentlemen of the jury I charge you that Title 7, Section 108 of the Code of Alabama provides that: "Misrepresentations of material fact, made willfully to deceive, or recklessly without knowledge, and acted on by the opposite party, or if made by mistake and innocently, and acted on by the opposite party, constitute legal fraud."

I further charge you that under this section of Alabama law an innocent misrepresentation, if the other elements of fraud are proven, is as much a legal fraud as an intended misrepresentation.

GIVEN
J. F. M. M. M.

PLAINTIFF'S REQUESTED CHARGE NO. 3

Ladies and Gentlemen of the jury I charge you that if after considering all the evidence in this case, you are reasonably satisfied therefrom that the Plaintiff is entitled to recover, and if you are reasonably satisfied from the evidence that the Defendant ^{Clyde Deert} committed the act set out in the complaint in a gross, malicious, or oppressive manner and with an intent to injure and defraud, you may include in your verdict what the law knows as punitive or exemplary damages; that is, such amount as in your judgement and discretion is reasonable as punishment to the Defendant for his conduct on the occasion complained of, and to make an example to deter the Defendant and others from similar conduct in the future.

Walter J. Washburn
judge

PLAINTIFF'S REQUESTED CHARGE NO. 4

I charge you, Ladies and Gentlemen of the jury, that punitive damages are damages over and above such sums as will compensate the person for his actual loss, the imposition of which the law permits in proper cases at the discretion of the jury, not because the party injured is entitled to them as a matter of right, but as a punishment to the wrong-doer and to deter him and others in the same business from such wrongdoing in the future.

D. W. C.
J. J. J. J. J.
judge

PLAINTIFF'S REQUESTED CHARGE NO. 5

Ladies and Gentlemen of the jury I charge you that if you are reasonably satisfied from the evidence that the Plaintiff is entitled to an award of punitive damages, the assessment of said punitive damages should be made with a view to punish the Defendant and to warn and deter others from similar conduct.

Duren
Defendant's witness
Judge