

976

ESTHER L. GORDON

VS.

R. C. KEENEY, ET AL.,

AND

SOPHIA MACH

VS.

EDWARD P. TOTTEN, ET AL.

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

The above two cases having been heretofore consolidated by an order of this Court, and the same coming on to be now heard and determined as one cause, is submitted on the pleading and the proof as noted by the Register in the respective cases.

Upon a consideration of the pleading and proof the Court is of the opinion that the complainant, Esther L. Gordon, is entitled to relief as against R. C. Keeney, but that no cause of action has been shown against the respondent, Bessie M. Keeney, nor has the said Esther L. Gordon established by the proof any lien on the certificate of stock left with the defendant Edward P. Totten, as attorney for Esther L. Gordon.

It is therefore, ordered, adjudged and decreed by the Court that the complainant, Esther L. Gordon, have and recover of the respondent, R. C. Keeney, the sum of Four Hundred, Sixty-five and no/100 (\$465.00) Dollars, due as rent, for which let execution issue.

It is further ordered, adjudged and decreed that the respondent, Bessie M. Keeney, go hence without cost.

Is is further ordered, adjudged and decreed by the Court that the Complainant, Sophia Mach, is the owner of and entitled to the possession of the certificate of stock in the Orange Beach Land Company now held by said Edward P. Totten as attorney for Esther L. Gordon, said certificate being numbered sixteen (16) for ten shares of One Hundred Dollars each in said Orange Beach Land Company, and said certificate being now in the name of R. C. Keeney; and the said Edward P. Totten is directed to

deliver said certificate of stock to Sophia Mach, her agent or attorney.

It is further ordered, adjudged and decreed by the Court that the said Sophia Mach is entitled to have said certificate of stock cancelled by the officers of said Orange Beach Land Company, and a new certificate issued in her name, and the officers of said corporation are ordered and directed upon the surrender of said certificate of stock to cancel same on the books of the corporation, and to issue in lieu thereof a like certificate of stock in the name of said Sophia Mach. It is further ordered, adjudged and decreed by the Court that the said R. C. Keeney has no right, title and interest in said described certificate of stock.

The Court further ascertains and adjudges that the complainant, Sophie Mach, is not entitled to recover attorneys' fees in this cause.

It is further ordered, adjudged and decreed by the Court that the costs in said consolidated case are taxed against the respondent, R. C. Keeney, for which let execution issue.

This the 15th., day of September, 1932.

F. W. Hare

Judge.

RECORDED

976

Decree

Filed Sept 16th 1932
J. W. Dickinson
Register

STATE OF ALABAMA

COUNTY OF BALDWIN

IN CIRCUIT COURT

IN EQUITY

ESTHER L. GORDON, Complainant.

vs.

MOTION

R. C. KEENEY and BESSIE M. KEENEY, Respondents.

Now comes the Complainant, by her attorney, Edward P. Totten, and moves this Honorable Court that this cause be taken under submission for determination and decree, in accordance with the provisions of the rules of Chancery Court.

Dated at Fairhope, Alabama, this 12th day of February, 1932.

Edward P. Totten
EDWARD P. TOTTON
Solicitor for Complainant.

2/25/32

It is ordered that this cause be submitted for final decree as or before Mch 10th 1932

W. H. Ware
Judge

Proctor

Colburn & Bondock

as
A. de. Henry

Chambers

Filed Feb 13th 1932
M. de. Henry
Register

James
in Henry
C. de. Henry
et al.

STATE OF ALABAMA

COUNTY OF BALDWIN

IN CIRCUIT COURT

IN EQUITY

M O T I O N

E. C. KENNEY vs. JAMES M. KENNEY, Complainant.

Now comes the Complainant, James M. Kenney, by her attorney, Edward

E. Totten, and moves this Honorable Court that she be

taken under admission for determination of her rights in the

above entitled cause, and that she be appointed guardian of the

property of the said James M. Kenney, and that she be appointed guardian of the

[Signature]
Solicitor for Complainant.

1/27/32
It is ordered that this cause
be submitted for final decision
on or before the 1st day of March 1932
at the Court House in the City of Mobile, Alabama.
[Signature]

this lease, and while you were earning a salary as public school teacher that the defendant, R.C. Keeney was hard pressed financially and unable to meet his obligations.

Hon. H.M. Hall, as attorney for the defendant objected to the above question on the grounds that it is immaterial, irrelevant and incompetent.

The witness Mrs. Keeney, refused to answer the question. Commissioner ruled that Mrs. Keeney did not have to answer the question in the way same was put.

Q. During this period, did you know anything as to the financial condition of your husband R.C. Keeney?

Hon. H.M. Hall, as attorney for the defendants objected to the above question on the grounds that it is immaterial, irrelevant and incompetent.
Answer to above question: No, not his financial condition or business. He kept that to himself.
Mr. Keeney was in the real estate business during all the period covered by this lease.

Bessie M. Keeney

R.C. Keeney, being duly sworn, deposes and says as follows:-

My name is R.C. Keeney. I am one of the defendants named in the above styled cause. I leased or rented the premises described in this bill of complaint sometime in January, 1923, from Mrs. Lowell, as agent for Mrs. Gordon. Mrs. Keeney was not with me and had nothing to do with the renting of the premises. She was not a party to the lease and had nothing to do with the leasing of the said premises. The original lease was for \$30.00 per month in advance. Later on in about 1925 or 1926 Miss Sacrist as agent for Mrs. Gordon told me that she was increasing the rent from \$30.00 to \$45.00 per month. I continued to live on the premises for practically 15 months when I made complaint as to the amount of the rental and it was reduced by Miss Sacrist, as agent for Mrs. Gordon to \$30.00 per month. In November or December, 1929, I spoke to Miss Sacrist, as agent for Mrs. Gordon and she agreed to reduce the rent to \$20.00 per month, providing it was agreeable with Mrs. Gordon. Miss Sacrist on several occasions subsequent to this time told me that she could not get an answer from Mrs. Gordon, as she was in France, and also stated that she recommended the reduction. During the time I was living on said premises I mentioned to Miss Lowell, as agent for Mrs. Gordon, that it was necessary that a garage be built. Miss Lowell advised me that she had taken it up with Mrs. Gordon and that Mrs. Gordon was unable to pay the entire bill, but would go fifty-fifty and give me credit on the rent. I in accordance with this agreement built a garage, costing \$190.00. Mrs. Gordon has never given me credit for her part of the expenses in building the garage. In addition to the amount due me on the garage I expended in accordance with an agreement with Miss Lowell and Miss Sacrist, as agents for Mrs. Gordon, some \$7.00 for plumbing. And in addition to this I spent as taxes on the place some \$38.80, this amount also was to apply on the rent. I admit that I occupied the premises described in the bill, for the time alleged, February 4, 1930, to June 4, 1931, and also admit that I am indebted in the sum of \$20.00 per month for said period, less the amounts expended by me, above set out, which I claim as a credit against said amounts.

My wife, Mrs. Bessie M. Keeney, lived with me as my wife on the premises during the time set out in the bill, but had nothing to do with the renting of said premises and she is not liable for the amount of any of the rent. Mrs. Keeney was not with me at the time the premises were leased and had nothing to do with the leasing of the premises and did not occupy the premises with me as joint tenant. I did not at any time, nor did anyone for me, agree in any manner to pay any amount as Solicitors' fees in this cause. I did not at any time admit to Judge Totten, or to any other person, that I was indebted to Mrs. Gordon in the sum of \$480.00, nor did I admit that Mrs. Keeney was in any manner responsible.

I, sometime during February, 1931, for about that time, consulted Judge Totten with reference to the payment of the rent due and Judge Totten

The State of Alabama }
Circuit Court of Baldwin County, Alabama,
(In Equity)

ESTHER L. GORDON
COMPLAINANT

VS.

R.C. KEENEY AND BESSIE M. KEENEY
RESPONDENT

I, T.W. Richardson

as Register and Commissioner

have called and caused to come before me R.C. Keene and Bessie M. Keene

witnesses named in the Requirement for Oral Examination, on the 4th day of March

1932, at the office of Register,

in Bay Minette, Alabama, and having first sworn said witnesses to speak the

truth, the whole truth, and nothing but the truth, the said Bessie M. Keene

doth depose and say as follows:

My name is Bessie M. Keene; I am one of the respondents in the above styled cause; I am the wife of R.C. Keene, the other respondent in this cause. Mr. Keene and I were married sometime during 1913; I had nothing whatever to do in the matter of leasing the premises for which this suit was brought. I was not present at the time the premises were leased. The premises were not leased to me and my husband R.C. Keene, but if leased at all, it was to my husband R.C. Keene. The premises were not leased to us as joint tenants. It is true that I did live with my husband R.C. Keene during the time we lived on said premises, but was in no manner responsible for any of the rent, in fact I do not know how much my husband was to pay as a rental for said premises. It is true that I taught in the Fairhope School during school session, but did not contribute anything towards the support and maintenance of the family. I do not know anything about the supposed agreement between my husband and Mr. Totten, concerning the rent. I did not in any manner contribute any money or anything towards the support and maintenance of my husband R.C. Keene, during the time we lived on the premises described in this cause. I, at no time acknowledged that I was indebted in any manner for the lease for the premises described and did not at any time pay any amount as rental for said premises. During the time I occupied the premises it was as the wife of R.C. Keene.

CROSS EXAMINATION BY Hon. EDWARD P. TOTTEN:-

During the period covered by this lease February 4, 1930 to June 4, 1931, I lived in Mrs. Gordon's residence with the defendant, R.C. Keene; during that period I was employed as a teacher in the public school of Fairhope during the all the months in which school was held, and I earned a salary as such teacher. I did not, during the entire period covered by the term of this lease, I did not expend any of the money earned by me, in the purchase of groceries for the supply of the family in the home. During this time I bought, out of my salary, presents of clothing for the family. Isn't it a fact that during all of the time, covered by

I, J. W. RICHMOND, as Register and Commissioner hereby certify

that the foregoing deposition is on Oral Examination was taken down in writing by me in the words of the witness, and read over to them and they signed the same in the presence of myself Am Hall & Edmund J. Green

at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness or had proof made before me of the identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 4th day of March, 19 32.

J. W. Richmond (L. S.)

No. 976 Page

The State of Alabama
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

ESTHER L. GORDON
COMPLAINANT

vs.

R. C. KEENEY and BESSIE M. KEENEY.

RESPONDENT

ORAL DEPOSITION

Filed March 4, 19 32

J. W. Richmond, Register

RECORDED IN

Record

Vol. Page

Register

CROSS EXAMINATION BY HON. E.P. TOTTEN:

I remember coming to your office in the latter part of the month of October, 1930, in response to a letter from you advising that the rent on Mrs. Gordon's house past due since the month of February, 1930 in the total amount of \$270.00, had been referred to you for collection. I recall that in several conversations at your office I agreed that the rent of the property was \$30.00 per month, but that the agent for Mrs. Gordon, Miss Searist, was trying to secure a reduction to \$20.00. I recall that in several conversations at your office regarding the rent the demand was always made by you on the basis of \$30.00 per month which was the agreed rental and that no reduction to \$20.00 had been made. After the rent was reduced from \$45.00 to \$30.00 per month all rent payments which I made were made on the basis of \$30.00 per month. The only amounts which I had paid to apply on the rent between February 4, 1930 and June 4, 1931 was the sum of \$38.80, which I paid as taxes and delivered to you the receipt therefor, and \$7.00 which I paid on a plumbing bill. The statement in the fourth paragraph of the answer stating that defendant R.C. Keeney "says that he consulted Hon. Edward P. Totten, as to whether or not he could find a purchaser for said stock and advised him, the said Totten, that if he could find a purchaser for said stock, that he would be willing a part of the proceeds from the sale of said stock to the payment of the rent which he was then due" is wholly untrue.

Q. I ask you whether you didn't deliver this certificate of stock representing ten shares of the per value of \$100.00 each, in the Orange Beach Land Company, and ask me to hold this as a security for the rent due to Mrs. Gordon, from you?

A. I did not.

Q. Did you place that stock with me as a pledge or as security in any other manner than in relation to your indebtedness to Mrs. Gordon as

rent.

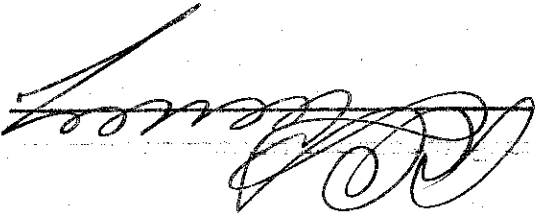
A. I gave you this stock to hold as my good faith in relation to the indebtedness to Mrs. Gordon. I delivered this stock when you were demanding of me, and I was discussing the payment of rent due from me to Mrs. Gordon. During the period of this tenancy of the Gordon house I was engaged in the real estate business. During the years 1930 and 1931 the real estate business was not very profitable in Baldwin County. During the school term in all of the months from February, 1930 to June, 1931, my wife Mrs. Bessie M. Keeney was employed as a teacher in the public school at Fairhope. Mrs. Keeney lived with me all the time in occupancy of the Gordon house in Fairhope. During all of this period I was able to meet all my living expenses, including rent. I recall that on four or five occasions when I called at your office regarding the payment of the rent due to Mrs. Gordon, that I stated to you that I did not have the ready cash with which to pay this rent. Mrs. Keeney did not help me during any of this time with the payment of any family expenses with her own personal money.

RE DIRECT EXAMINATION BY HON. H.M. HALL:

I delivered the stock mentioned in this matter to Judge Totten personally and told him to hold it and did not instruct him or authorize him to deliver or turn it over to anyone else. If he has turned this stock over to any one else it was without any instructions or authority from me,

RE CROSS EXAMINATION BY HON. E.P. TOTTEN:

I placed this certificate of stock referred to in the bill in your hands when you were trying to collect the rent due from me to Mrs. Gordon.



ESTHER L. GORDON, Complainant,

IN CIRCUIT COURT

vs.

OF BALDWIN COUNTY, ALABAMA,

R. C. KEENEY and BESSIE M. KEENEY,
Defendants.

IN EQUITY

B I L L O F C O M P L A I N T .

To the Honorable F. W. Hare, Judge of said Court:

Humbly complaining, your oratrix brings this bill of complaint against the defendants above named, R. C. Keeney and Bessie M. Keeney, and respectfully shows unto Your Honor as follows:

That your oratrix and each of the defendants are over the age of twenty one years and that the defendants are husband and wife and are residents of the town of Fairhope, in Baldwin county, Alabama;

That heretofore, on to-wit: February 1st, 1930, your oratrix demised and leased to the defendants a certain residence and dwelling-house, with appurtenances, furnished, owned by her and situated upon premises described as Lots Eleven and Twelve in Block Three of Division Two, of the town of Fairhope, in Baldwin county, Alabama, at the agreed rental of Thirty Dollars per month, payable monthly in advance, and that the defendants accepted of the said dwelling-house and premises with the furniture therein and agreed and promised to pay to your oratrix the said sum of Thirty Dollars a month, monthly in advance, as and for the said furnished residence and premises;

That the said defendants, and each of them, remained in occupancy and possession of the above described premises, with the full and complete use thereof, under such agreement of renting, from the fourth day of February, 1930, to the fourth day of June, 1931, without paying to your oratrix any other or further sum than the amount of \$38.80, paid on or about February 26th, 1931, and that there is now due and owing from the defendants to your oratrix, under said rental agreement, the sum of Four Hundred Eighty Dollars, with legal interest on the component parts of such amount as they severally became due, less the sum above stated as paid by defendants;

That during the month of February, 1931, and when there was more than one year's rental of said premises past due and unpaid, the Defendant R. C. Keeney gave, delivered and pledged with and to your oratrix a certain certificate of stock, representing ten shares of the par value of one hundred dollars each in the Orange Beach Land Company, an Alabama corporation, which certificate was in the name of the said defendant R. C. Keeney, as security for the payment of rental then past due and to become due from the defendants to your oratrix for the residence premises before described, and that the said stock certificate is still in the possession of your oratrix and has been and now is held by her as security for the payment of the total sum of money due to her from the Defendants.

That under and by virtue of the statutes of this state, your oratrix has, claims and holds a landlord's lien upon all of the goods, furniture, effects and property of the Defendants, and of each and of both of them, which, during the term of their occupancy of complainant's residence with appurtenances, has enjoyed the protection of the premises hereinbefore described, for the entire amount of rent now due and owing from the defendants to your oratrix as set forth herein, and that the said landlord's lien is now a valid and subsisting lien on all of such property of the defendants, in favor of the complainant, and that such goods, furniture, effects and property of the defendants, as covered by such lien, are now situated in the town of Fairhope, within Baldwin county, Alabama.

PRAYER FOR PROCESS AND FOR RELIEF:

The premises considered, your oratrix prays that the defendants named, R. C. Keeney and Bessie M. Keeney, be made parties respondent to this bill of complaint, by the usual process of this Honorable Court, and that they be required to demur, plead to or answer the same within the time and under the penalties as provided by law or that the same be forever confessed.

Your oratrix further prays that, upon the final hearing of this cause, the pledge of the Defendant R. C. Keeney of one certain stock certificate as before set forth may, by the order and decree of this Honorable Court, be foreclosed by the sale of such stock in satisfaction of judgment in favor of the complainant for the amount found by the Court to be due from the defendants to your oratrix;

That complainant's lien upon all of the goods, furniture, effects and property of the defendants, and of each and of both of them as above set forth, may by the order and decree of this Honorable Court be foreclosed by the sale of such goods and property to satisfy judgment in favor of complainant for such amount shall by the Court be found to be due from the defendants to your oratrix, with all the costs and expenses of making such sale;

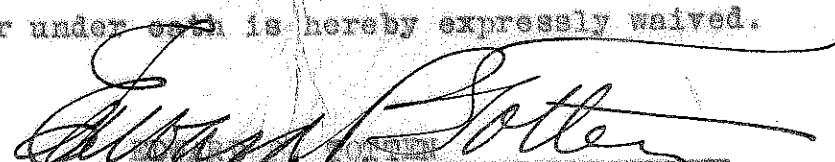
That your oratrix may be allowed, awarded and adjudged, by the decree of this Court, further, from the defendants, the sum of Seventy Five Dollars as counsel fees upon the above foreclosures, made necessary by the default of the defendants, and your oratrix prays for such other, further and different relief as equity and good conscience may require, as to the Court may seem just and equitable, if your oratrix has in anywise prayed or asked amiss of this Honorable Court.

Dated this 25th day of June, 1931.


Elvira F. Potter
Solicitor for Complainant

FOOTNOTE:

The defendants above named are required to answer every allegation contained in the foregoing bill of complaint, but not under oath, as answer under oath is hereby expressly waived.


Elvira F. Potter
Solicitor for Complainant.

Original

Bill of

Complaint

Edwards & Jackson

W. C. Kennedy & Davis

W. C. Kennedy & Davis

RECORDED

Filed June 26/1931

W. C. Kennedy & Davis

W. C. Kennedy & Davis

W. C. Kennedy & Davis

RECORDED

Edwards & Jackson

City for Complaint

Your exhibit further prays that, upon the final hearing of this cause, the pledge of the Defendant R. C. Kennedy of one certain stock certificate as before set forth may, by the order and decree of this Honorable Court, be foreclosed by the sale of such stock in satisfaction of judgment in favor of the complainant for the amount found by the Court to be due from the defendants to

Your exhibit;

that complainant's lien upon all of the goods, furniture, fixtures and property of the defendants, and of each and all of them, be set forth, by the order and decree of this Honorable Court, be foreclosed by the sale of such goods and property to satisfy the judgment in favor of complainant for such amount as shall be found by the Court to be due from the defendants to complainant, with all the costs and expenses of making such sale; that your exhibit may be allowed, awarded and adjudged, the decree of this Court, further, from the defendants, the sum of seventy five dollars as counsel fees upon the above foreclosures, made necessary by the default of the defendants, and your exhibit prays for such other, further and different relief as equity and good conscience may require, as to the Court may seem just and equitable, if your exhibit has in anywise prayed or asked relief of this Honorable Court.

Witness my hand and seal of office, this 25th day of June, 1931.

[Signature]
Solicitor for Complainant

EXHIBIT

The defendants above named are required to answer every allegation contained in the foregoing bill of complaint, but not under oath, as answer under oath is hereby expressly waived.

[Signature]
Solicitor for Complainant

The State of Alabama }
Baldwin County

Circuit Court of Baldwin County, Alabama,
(In Equity)

ESTHER L. GORDON

COMPLAINANT

VS.

R. C. KEENEY and BESSIE M. KEENEY,

RESPONDENT

I, T. W. Richerson

as Register and Commissioner

have called and caused to come before me Edward P. Totten

witness named in the requirement for Oral Examination, on the 11th day of December
1931, at the office of T. W. Richerson
in Bay Minette, Alabama, and having first sworn said witness to speak the
truth, the whole truth, and nothing but the truth, the said Edward P. Totten

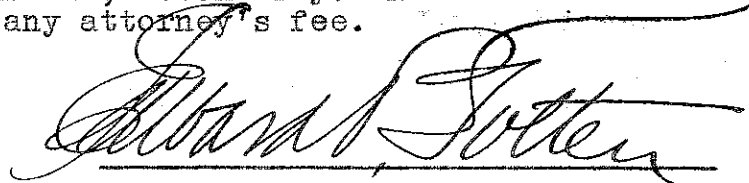
doth depose and say as follows:

My name is Edward P. Totten. I live at Fairhope, Alabama. I am a regular licensed attorney, practicing at Fairhope, Alabama. About the middle of October, 1930 there was placed in my hands by Mrs. Esther L. Gordon, the complainant, a claim against R. C. Keeney, the defendant for past due rent. On October 22, 1930, I wrote to Mr. Keeney in relation to past due rent on Mrs. Gordon's residence in the town of Fairhope, Alabama. In response to my letter, Mr. Keeney called at my office during the latter part of October, 1930 and admitted and acknowledged to me that he was indebted to Mrs. Gordon, the complainant for the rent of her residence since the 4th day of February, 1930 and that the agreed rental, which he was to pay for such residence was the sum of \$30.00 per month. He promised to pay the total amount then past due as rent as soon as he could raise the money from real estate deals, which he stated he then had pending. After this I wrote Mr. R. C. Keeney, the defendant, once or twice and interviewed him personally a number of times at my office in relation to the amount past due for rent of Mrs. Gordon's premises and each time he admitted the obligation and promised payment thereof as soon as he was able. The Defendant, Bessie M. Keeney, is the wife of the defendant, R. C. Keeney, and during all the time covered by this suit lived with defendant R. C. Keeney in the residence and premises belonging to Mrs. Gordon described in the Bill of Complaint. During all of such period the defendant, Bessie M. Keeney, was a teacher in the public school at Fairhope, Alabama, and in such capacity was earning money for the support and maintenance of her husband and their family consisting of two minor children; that the lease of the premises was not in writing, but was between the defendant, R. C. Keeney, and the defendant, Bessie M. Keeney, as joint tenants, both being the breadwinners and supporters of said family. The defendant, Bessie M. Keeney, remained with her husband in full possession and occupancy of the premises from the 4th day of February, 1930 to the 4th day of June, 1931 and has made no payment of rent to complainant in connection with such occupancy and use. There is due as such rental for the said period, from the defendant to the complainant, the sum of \$480.00 with the addition of legal interest on the several sums of \$30.00 due as rental for each month during that period, as they severally became due,

less one payment of \$38.80, which Defendant, R.C.Keeney, made about February 28, 1931. Sometime during the month of February, 1931, Defendant R.C.Keeney, brought to my office and left with me as security for the payment of rent due to Complainant a certain certificate, numbered 16, for ten shares of Capital Stock of the Orange Beach Land Company of Robertsedale, Alabama. This certificate was for ten shares of \$100.00 each of the Capital Stock of said Company, which was incorporated under the laws of Alabama. As attorney for Mrs. Esther L.Gordon I received and accepted the said stock certificate at R.C.Keeney's suggestion and held the same and still hold it in possession for Mrs. Gordon as security for the payment of the rent due from defendant to complainant. The Defendants during their occupancy and residence in the premises and dwelling house of complainant in Fairhope, Alabama, used therein a quantity of household furniture and effects belonging to them and a certain Sedan Automobile, which they stored in a garage on the said premises. When they left the premises in June, 1931, they took such household furniture and effects and automobile with them and moved into the E.G.Dougherty residence on Lots 8, 9, and 10 in block 10, Division 2, in the town of Fairhope, Alabama, and the said household furniture, effects and automobile are at this time still owned by the defendants and are upon the premises last described; that the complainant has been obliged to employ me as attorney to foreclose her lien upon the said furniture and property of the defendant and to foreclose the pledge of the certificate of stock as set forth above, and in this connection has incurred obligation in the sum of \$75.00 as counsel fees in this foreclosure.

On Cross-examination by H.M.Hall, Edward P.Totten, attorney for the Complainant, who being duly sworn, testified as follows:-

My information is that the premises were leased to the Keeneys about the 1st of February, 1930 and that prior thereto, they had been occupying the same premises under a similar lease at the same rate of rental. I did not represent Mrs. Gordon in the matter of making the lease with the Keeneys. I do not know personally whether both of the Keeneys, or only one of them made this agreement or lease of the premises. Mr. Keeney told me that he was to pay \$30.00 per month as rent. There was no agreement so far as I know, in the reduction of the rental. Bessie M.Keeney has never discussed the matter of the rental of the premises with me. Mrs. Keeney lives with her husband, R.C.Keeney. Neither of the Keeneys have agreed to pay me any attorney's fee.



ORAL EXAMINATION

I, T.W. Richerson as Register and Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witness and read over to him and he signed the same in the presence of myself and Edward P. Totten, Atty for Complainant and H.M. Hall Atty for Defendant, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness or had proof made before me of the identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 11th day of December 19 31.

T.W. Richerson (L. S.)

No. 976

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

Esther L. Gordon

COMPLAINANT

vs.

R.C. Keeney and Bessie M.

Keeney

RESPONDENT

ORAL DEPOSITION

Filed December 11th, 1931

T.W. Richerson, Register.

RECORDED IN

Record

Vol. _____ Page _____

Register

2
8581 NOTE OF TESTIMONY

ESTHER L. GORDON,

Complainant,

vs.

R. C. KEENEY ET AL.,

Respondents.

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,-----
Testimony of Edward P. Totten and Brief;

and in behalf of Defendant upon **Answers, testimony of R. C. Keeney and**
Bessie M. Keeney, and Brief.

J. M. Rice

Register.

No. -----

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

Edward Gordon

VS

R. L. Kennedy

NOTE OF TESTIMONY

Filed in Open Court this *13th*

day of *Sept* 19*22*

W. B. ...

Register.

8581 NOTE OF TESTIMONY

ESTHER L. GORDON

COMPLAINANT

VS.

R. C. KEENEY and

BESSIE M. KEENEY

DEFENDANTS

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint, and the testimony of the following witnesses:

Edward F. Totten

and in behalf of Defendant upon the Answer

Register.

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY

ESTHER L. GORDON

COMPLAINANT

VS

R. C. KELLEY et al.

Defendants.

NOTE OF TESTIMONY

Filed in Open Court this

25-

day of

1922

Register

MOORE PISCO

8581 NOTE OF TESTIMONY

Esther L. Gordon

THE STATE OF ALABAMA,
BALDWIN COUNTY

vs.

R.C. Keeney and Bessie M. Keeney.

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,
and testimony of Edward P. Totten

and in behalf of Defendant upon testimony of R.C. Keeney and Bessie M. Keeney.

W. H. Keeney
Register.

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

Ethel L. Gordon

VS

H. C. Keeney,

NOTE OF TESTIMONY

Filed in Open Court this 16th

day of March, 1932.

Register

MOORE P1600

No. 1051.

ESTHER L. GORDON,	)	
	)	IN THE CIRCUIT COURT OF
Complainant,	)	
	)	BALDWIN COUNTY, ALABAMA.
vs.	)	
	)	
R. C. KEENEY and BESSIE	)	
M. KEENEY,	)	
Defendants.	)	

It is agreed between all the parties to this cause that the testimony of EDWARD P. TOTTEN and R. C. KEENEY be taken down in shorthand and transcribed by the stenographer and used in the cause without being signed or read over to them.

EDWARD P. TOTTEN, a witness for the complainant, being duly sworn, testified as follows:

In discussing with me, during one of his many visits to my office, the question of the garage which he had built upon Mrs. Gordon's lots, Mr. R. C. Keeney stated to me that he had built this building on his own motion because he needed it himself and without any authorization from Mrs. Gordon or her agent. He asked me to take up with Mrs. Gordon the question of allowing him a credit to the extent of whatever she was willing to allow on the rent for the garage. I distinctly told Mr. Keeney that I had no authority to allow any credit on the rent for the garage and that I was unable to get Mrs. Gordon's view of the matter by reason of the fact that she was ill. On more than one occasion he brought up this matter of the garage and requested me to make some allowance on rent, telling me at different times that he had

had no allowance or agreement of allowance from any one representing Mrs. Gordon for the building of this garage.

In talking with Mr. Keeney regarding his property and the part of the furniture in the house which did not belong to Mrs. Gordon, Mr. Keeney stated to me that he owned the furniture which had been placed in there after the lease contract was entered into, and that he owned a motor car, and that Mrs. Keeney was the owner of a sedan which she had herself purchased. I asked him particularly as to the ownership of such items of furniture as had been placed in the house during his tenancy, and he stated that they belonged to him.

MR. HALL: We object to any testimony on the part of the witness, Edward P. Totten, for the reason that the testimony called for was gone into thoroughly at the time testimony was taken on a former date, and the testimony called for now is in direct contradiction of the testimony formerly given by the witness, Edward P. Totten.

In submitting testimony in this matter on the 11th day of December, 1931, I stated that during the month of February, 1931, defendant, R. C. Keeney, brought to my office and left with me as security for the payment of rent due to the complainant a certain certificate numbered 16. This certificate was placed in my hands by Mr. Keeney as a pledge for rent then due and then accruing from him to Mrs. Gordon at the rate of \$30.00 per month. To the best of my recollection this deposit of stock was made about the first part of February, 1931.

MR. HALL: We move to exclude the above testimony on the ground above stated in our objection, and on the further ground that it was an effort on the part of the said Edward P. Totten to impeach testimony formerly given by him in this cause and which now proves to be against him.

CROSS EXAMINATION BY

MR. HALL.

Q Mr. Totten, you testified in this case on the 11th day of December, 1931, before Hon. T. W. Richerson, did you not?

A I did.

Q You were at that time sworn, were you not?

A I was.

Q Did you at that time state as follows: "Sometime during the month of February, 1931, defendant, R. C. Keeney, brought to my office and left with me as security for the payment of rent due to complainant a certain certificate numbered 16 for ten shares of capital stock of the Orange Beach Land Company of Robertsdale, Alabama"?

A I did.

Q Did you at that time testify as follows: "This certificate was for ten shares of \$100.00 each of the capital stock of said company which was incorporated under the laws of Alabama. As attorney for Mrs. Esther L. Gordon I received and accepted the said stock certificate at R. C. Keeney's suggestion and held the same and still hold it in possession for Mrs. Gordon as security for the payment of the rent due from defendant to complainant".

A That's right; I did.

Q What has caused you now to change your testimony from stating that it was for rent due to rent that was now due and now accruing?

A The fact is, that on my original testimony I overlooked the fact that the stock certificate was deposited for both past due rent and for rent accruing, because Mr. Keeney was asking for an extension of credit not only for what was past due, but that he be allowed to remain in the house and that we hold the stock as security for the rent which was to become due, and Mr. Keeney did so remain in the house for a period of some four months

under such arrangement. The testimony I offered at that time showed that we were claiming said certificate for the whole amount of the indebtedness due from Mr. Keeney to Mrs. Gordon from February, 1930, to June, 1931.

Q At that time had you started any proceeding against Mr. Keeney when he brought the stock to you?

A No, I had not - not commenced.

Q Did you at that time anticipate that Keeney would be on the premises a longer period of time?

A Why, I allowed him to remain on the premises.

Q Hadn't you on numbers of occasions asked him to vacate the premises?

A I had not.

Q Up to that time?

A No, I had not.

R. C. KEENEY, defendant, being duly sworn, on re-direct testimony states as follows:

Well there wasn't any garage there and I asked the agent if Mrs. Gordon wouldn't build a garage and take it out in rent, and she evidently wrote and said "no, she couldn't afford it". I then said to her, well, we'll go fifty-fifty on it, and then she wrote and asked her, and the agent said that she thought Mrs. Gordon would go fifty-fifty.

I did not at any time have a conversation with Judge Totten in which I stated that any part of the furniture in the house belonged to me; I repeatedly told him that the furniture belonged to my wife, Bessie M. Keeney; the furniture belonged to my wife, Mrs. Keeney.

RE-CROSS EXAMINATION BY

MR. TOTTEN.

Q You recall when I talked to you about what property you had when you were asking for an extension of time for payment, that you distinctly told me that you owned a motor car which you were driving; that you owned the furniture in the house that didn't belong to Mrs. Gordon, and that your wife had a car, a sedan car of her own?

A I told you that I had a car of my own, I did; I told you what it was too, a Chevrolet; I didn't tell you anything about the furniture; I said it belonged to my wife; the sedan belonged to my wife.

MRS. BESSIE M. KEENEY, a witness for the defendant,
being duly sworn, testified as follows:

My name is Bessie M. Keeney; I am the wife of R. C. Keeney; I live at Fairhope, in Baldwin County, Alabama. All the furniture which was used in the house rented by my husband, R. C. Keeney, from Esther L. Gordon, except such furniture as was therein belonging to Mrs. Gordon, was purchased and paid for and is being paid for by me and belongs to me, and my husband, R. C. Keeney, has no interest therein.

Deposition

Grand Sept 13/93

W. H. H. H. H.

Grand

ESTHER L. GORDON,
Complainant,

vs

R. C. KEENEY and BESSIE
M. KEENEY,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW, #976.

Come the Defendants and for answer to the Complainant's
bill of complaint and to each count thereof say:

FIRST:

That they are both over the age of twenty-one years and
residents of Fairhope, in Baldwin County, Alabama.

SECOND:

They deny the allegation that the Complainant, on February
1, 1930, demised and leased the premises described in the bill of
complaint to R. C. Keeney and Bessie M. Keeney, Defendants, but say
that said premises were leased and demised to R. C. Keeney; that the
Defendant, Bessie M. Keeney had nothing to do with the said leasing
of said premises; that they deny the allegation as to the rental of
thirty dollars per month, payable in advance, and demand strict
proof thereof.

THIRD:

They admit the allegations of the bill that the Defendant
R. C. Keeney remained in occupancy and possession of the premises des-
cribed in said bill from the 4th., of February, 1930, to the 4th., day
of June, 1931, but deny that the Defendant, Bessie M. Keeney, remained
in the possession or in the occupancy of the said premises and demand
strict proof thereof; that they deny the allegation as to the amount
now due and as to the amount that has been paid under said agreement
and demand strict proof thereof.

FOURTH:

The Defendant, R. C. Keeney, denies all the allegations in the bill of complaint that he delivered and pledged with the Complainant a certain certificate of stock representing ten shares of the par value of one hundred dollars each in the Orange Beach Land Company, but says that he consulted Hon. Edward P. Totten, attorney, as to whether or not he could find a purchaser for said stock and advised him, the said Totten, that if he could find a purchaser for said stock that he would be willing to apply a part of the proceeds of the sale of said stock to the payment of the rent which he was then due, that said stock was not delivered to him as a pledge nor was it ever considered as being held by him as such; that the said certificate of stock, so far as the Defendant, R. C. Keeney, knows, is now held by Hon. Edward P. Totten in accordance with their agreement.

FIFTH:

That the Defendant, Bessie M. Keeney, specifically denies that the Complainant has any lien upon any property owned by her, that she did not rent the said premises and that she is not indebted to the Complainant in any amount.

SIXTH:

The Defendants deny the allegations contained in the prayer of the bill that Hon. Edward P. Totten is entitled to any attorneys fee to be charged against them.

And for further answer to said bill of complaint the said Bessie M. Keeney says that she is the wife of R. C. Keeney, that the said premises described in the bill of complaint were rented by the said R. C. Keeney without any knowledge on her part or any agreement on her part and that the amount due is not her debt and is not chargeable against her, and that she is not indebted to the

Complainant in any amount.

Beebe & Haege
SOLICITORS FOR DEFENDANTS.

ESTHER L. GORDON,
Complainant,

VS

R. C. KERNY and BESSIE
M. KERNY, Defendants.

ANSWER.

Filed September 21, 1931,

W. C. Kerny
Register.

BEEBE & HALL
LAWYERS
BAY MINETTE, ALABAMA

ESTHER L. GORDON,
Complainant,
vs.
R. C. KEENEY and
BESSIE M. KEENEY,
Defendants.

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

Come the defendants in the above styled cause and demur
to the Bill of Complaint in this cause, and for grounds of demurrer
say:

1. That there is no equity in the bill.
2. That the complainant has a full, adequate and
complete remedy at law.

Bessie & Co.
Attorneys for Defendants.

The State of Alabama, }
Baldwin County } Circuit Court of Baldwin County, In Equity

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon R.C.Keeney and Bessie M.Keeney,

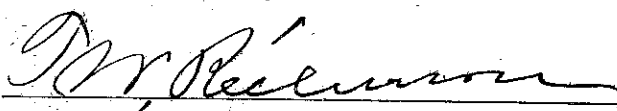
of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by Esther L.Gordon,

against said

R.C.Keeney and Bessie M.Keeney,

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

WITNESS, T. W. Richerson, Register of said Circuit Court, this 26th day of June, 1931.

 Register

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

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RECORDED
ORIGINAL.

ESTHER L. GORDON,
Complainant,

vs.

R. C. KEENEY and BESSIE
M. KEENEY,
Defendants.

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

DEMURRER.

Filed July 7th 1931
J. W. McCreary
Register

RECORDED

BEEBE & HALL
LAWYERS

DAY MINETTE ALABAMA