

942

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 _____

Freidrich Ephardt,

1211 Carondelet Street,

New Orleans, Louisiana

of _____ 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

Poultry Finance Corporation, a corporation,

against said _____

Freidrich Ephardt

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 10th day of January, 1931

TWR Register

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

SERVE ON Freidrich Ephardt
Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

Poultry Finance Corporation,
a corporation,

vs.

Freidrich Ephardt and Margaret
Ephardt

Lloyd A. Magney
Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA,
BALDWIN COUNTY

Received in office this _____
day of _____ 19____

Sheriff.

Executed this _____ day of _____
19____
by leaving a copy of the within Summons with

Defendant.

Sheriff.

By _____
Deputy Sheriff.

Raymond

POULTRY FINANCE CORPORATION,
A CORPORATION.

COMPLAINANT

-vs-

FREIDRICH EPHARDT AND MARGARET
EPHARDT

RESPONDENTS

IN THE CHANCERY COURT OF
BALDWIN COUNTY, ALABAMA

IN CHANCERY

BILL OF COMPLAINT.

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA IN CHANCERY SITTING.

Comes now Poultry Finance Corporation and humbly complain-
ing against Freidrich Ephardt and Margaret Ephardt respectfully
shows unto your honor as follows:

FIRST: That your complainant is a corporation organized
and existing under and by virtue of the laws of the State of Ala-
bama with its principal place of business in Baldwin County, Ala-
bama and that the said respondents Freidrich Ephardt and Margaret
Ephardt are each over the age of twenty-one (21) years and are
non-residents of the State of Alabama, their place of residence
being unknown to your complainant.

SECOND: That on April 21, 1930 the respondent Freidrich
Ephardt executed and delivered to your complainant a certain note
and contract whereby he agreed to pay to your complainant the sum
of Three Hundred Twenty-Two & 50/100 (\$322.50). That the consider-
ation for said note and contract was fifteen hundred (1500) baby
chicks then delivered by your complainant to the said respondent,
feed for said chicks to the value of One Hundred Sixty-Four &
50/100 (\$164.50) thereafter delivered by your complainant to said
respondent and that by the terms of said contract, title to said
chickens was retained by your complainant until said note should
be fully paid.

That as additional security for the payment of said in-
debtedness the said respondent, Freidrich Ephardt, executed and
delivered to your complainant a chattel mortgage conveying to
complainant six hundred (600) Brown Leghorn laying hens then owned
by said respondent and which said mortgage was recorded in the
office of the Judge of Probate of Baldwin County, Alabama on the

29th day of April, 1930 in Mortgage Book #48 at Page 287.

The copy of said note and contract marked Exhibit A and a copy of said mortgage marked Exhibit B are attached hereto and by reference made a part hereof.

THIRD: That during the month of September 1930 the said respondent, Freidrich Ephardt, fraudulently sold and disposed of all of the property mentioned above including the fifteen hundred (1500) chickens delivered to him by complainant and also the six hundred (600) laying hens mortgaged to complainant as aforesaid and converted to his own use the proceeds of such sale and accounted to complainant for no part thereof except the sum of Twenty-seven & 24/100 (\$27.24) Dollars received by said respondent on July 31, 1930 from the sale of certain chickens which was made with the consent of the complainant.

FOURTH: That the value of said property so unlawfully, wrongfully, and fraudulently converted by the respondent, Freidrich Ephardt as aforesaid was the sum of Five Hundred & 00/100 (\$500.00) and your complainant alleges that it has been damaged in said amount and claims of said respondent, Freidrich Ephardt, said sum of Five Hundred & 00/100 (\$500.00) Dollars for damages for said conversion.

FIFTH: That being indebted to your complainant as aforesaid, the said respondent, Freidrich Ephardt, for the purpose of hindering, delaying, and defrauding your complainant in or out of the collection of aforesaid debt did convey all of his real property situated in this County and State to his wife, the aforesaid Margaret Ephardt, respondent, and did execute and deliver to her a deed conveying to the said Margaret Ephardt the following described real estate in Baldwin County, Alabama, to-wit:


The South Half ($S\frac{1}{2}$) of the Northeast quarter ($NE\frac{1}{4}$) of the Southeast quarter ($SE\frac{1}{4}$) of Section Twenty-two (22) Township Seven (7) South Range Six (6) East and also beginning at the Northwest corner of Section Twenty-six (26) Township Seven (7) South Range Six (6) East run thence east three hundred thirty-two (332) feet thence South Thirty (30) feet for a beginning; thence East Three Hundred Thirty-two (332) feet thence South Twelve Hundred Sixty-eight (1268) feet thence West Three Hundred Thirty-two (332) feet and thence North Twelve Hundred

Sixty-eight (1268) feet to the place
of beginning.

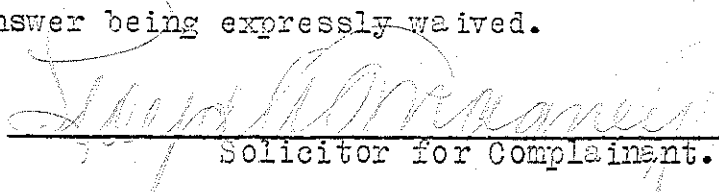
That said deed was made without consideration and was fraudulent and void as to the complainant and that said conveyance was made by the said Freidrich Ephardt and accepted by the said Margaret Ephardt with the intention of defrauding your complainant out of the aforesaid debt owing from said Freidrich Ephardt to your complainant and that said conveyance is void as to your complainant's said debt. The aforesaid deed is attached hereto marked Exhibit C and by reference made a part of this Bill of Complaint.

Wherefore complainant prays that Your Honor, upon the final hearing of this cause, will make and enter a decree declaring void, annulling and setting aside the aforesaid deed and subjecting said lands to the said debt owing by said respondent Freidrich Ephardt to your complainant and that complainant may have such other, further or different relief in the premises as may be just and equitable.

And complainant further prays that Your Honor direct that the Register of this court make out and superintend the appropriate order of publication to the nonresident defendants Freidrich Ephardt and Margaret Ephardt commanding them within thirty (30) days after the period specified in the order of publication to appear before Your Honor in this honorable court and then and there to answer all and singular the premises and to stand to and abide such order and decree therein as to this honorable court shall seem meet; and your complainant shall ever pray, & c.


Solicitor for Complainant.

The defendants are required to answer every allegation of the foregoing complaint, paragraphs numbered one to five inclusive, but not under oath, oath to answer being expressly waived.


Solicitor for Complainant.

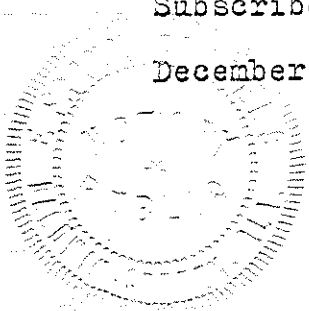
STATE OF ALABAMA.)
BALDWIN COUNTY.)

Before me, E. Frank Sanders, a notary public in and for said County and State on the 16th day of December, 1930, personally appeared Lloyd A. Magney, the attorney for the plaintiffs in the aforesaid cause and being sworn by me he stated that in his belief Fredrich Ephardt and Margaret Ephardt, the above named defendants are nonresidents of this State; that he has made diligent inquiry to learn their place of residence and has been unable to ascertain the same and that as affiant believes the said defendants are each over twenty-one (21) years of age.

Lloyd A. Magney

Subscribed in my presence and sworn to before me this 16th day of December, 1930.

E. Frank Sanders
Notary Public.



\$322.50

Robertsdale, Ala., April 21, 1930

January 21, 1931 after date, I promise to pay to the order of POULTRY FINANCE CORPORATION, Robertsdale, Alabama.,

---Three hundred twenty-two & 50/100----- DOLLARS,
for value received, with interest at eight (8) per cent per annum from maturity until paid. Payable at State Bank of Elberta, Elberta, Ala.,

There has been deposited and pledged as collateral security for the payment of this note, or any other obligation or liability of the undersigned to the owner hereof, whether the same be now existing or hereafter contracted, now due, or hereafter to become due, the following property, to-wit:

Chattel mortgage conveying 600 Brown Leghorn hens.

and full power and authority is hereby granted to sell, assign or deliver whole or any part thereof, or any substitute therefore, or any addition thereto, at public or private sale, at the option of the owner or holder of this note, his, their or its heirs or assigns on the non-performance of this promise, or nonpayment of any of the liabilities herein named, at any time or times thereafter, without advertisement or notice which is hereby expressly waived, and at any such sale the owner or holder of this note may purchase the whole or any part of such securities discharged from any right of redemption or liability for conversion. The proceeds of such sale shall be applied first to the payment of the expense of making such sale, including a reasonable attorney's fee if any attorney is employed or consulted; second to the payment of the principal debt hereby secured and the interest thereon; third to the payment of any other debt which the undersigned may now or hereafter owe to the owner or holder of this note, either as principal or interest, or as principal, surety, endorser or otherwise, and if any surplus remains, the same shall be paid to the undersigned.

This note is given and the above described collateral security pledged to secure to POULTRY FINANCE CORPORATION payment for 1,500 baby chicks this day delivered to the maker hereof, and for feed to the amount of \$150.00 to be provided by POULTRY FINANCE CORPORATION, and this note and collateral security is now accepted or given as payment for such property but merely as security and it is agreed by the undersigned that title to all such property shall remain in POULTRY FINANCE CORPORATION until the purchase price shall be paid according to the terms hereof, and said POULTRY FINANCE CORPORATION shall have the right to retake possession of such property at any time it shall feel itself insecure or in the event of any breach hereof or failure to comply with any of the terms or conditions hereof by the undersigned. The taking of any or all of such property shall not be construed as payment of this note, but the value of any property so taken shall be credited as a payment hereon and the balance of the debt remaining unpaid shall be due and payable by the undersigned.

The undersigned hereby further promises and agrees that he will handle and care for such chicks in the manner prescribed by POULTRY FINANCE CORPORATION and agrees that such chicks shall be inspected by the Supervisor of such corporation and that he will faithfully carry out and obey all the instructions from such Supervisor as to feeding, housing and all other matters relating to the care and management of such chicks.

When such chicks are approximately ten (10) weeks old, the undersigned will aid and assist the Supervisor of POULTRY FINANCE CORPORATION in culling the cockerels and those so culled shall be delivered to POULTRY FINANCE CORPORATION TO BE BY IT SOLD AT THE then market price and the proceeds thereof shall be applied as a credit on this note.

When such chicks are approximately 4½ months old, the undersigned will aid and assist the Supervisor of POULTRY FINANCE CORPORATION in culling said flock for non-laying pullets, and those so culled shall be delivered to POULTRY FINANCE CORPORATION to be by it sold at the then market price and the proceeds thereof shall be applied as a credit on this note.

After said flock shall have been culled for non-layers, the undersigned agrees to deliver to the Supervisor, for said POULTRY FINANCE CORPORATION, ten per cent. (10% of the select pullets remaining as compensation for the services rendered by said POULTRY FINANCE CORPORATION to the undersigned. We agree to sell these pullets to said Ephardt at One & 25/100 (\$1.25) Dollar per bird.

Should the sums received by said POULTRY FINANCE CORPORATION from the sale for the cockerels and nonlaying pullets, exceed the amount due on this note, said note shall be marked paid and delivered to the undersigned and any surplus paid at once to him.

From the time of the delivery of such chicks to the undersigned, they shall be at the risk of the undersigned and no credit shall be allowed hereon for any that may die or be lost, but this note shall in all events be due and payable according to the terms hereof and any security pledged herewith, or any guarantee hereof, shall stand and be security for the prompt payment hereof according to the terms herein expressed.

The parties to this instrument, whether maker, endorser, surety or guarantor, each for himself, hereby severally waives as to this debt or any renewal thereof, all right to exemption under the Constitution or Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collection, or attempting to collect or secure this debt, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise, And the maker, endorser, surety or guarantor of this note severally waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold them and they agree that time of payment may be extended without notice to them of such extension.

The said State Bank of Elberta is hereby authorized by each maker, surety, endorser or guarantor hereof to apply at any time any funds in said Bank belonging to any one or more of said makers, endorsers, sureties or guarantors, to the payment of this debt.

ATTEST:

Friedrich Ephardt

L. A. Magney

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THE UNDERSIGNED, for and inconsideration of the delivery and furnishing to _____ of the property and services enumerated and set forth above, does hereby guarantee to POULTRY FINANCE CORPORATION the faithful performance of the above contract, hereby expressly waiving all formalities, including notice of acceptance, of default, and diligence against the maker hereof in the event of default.

DATED this _____ day of _____, 1935 .

ATTEST:

CHATTEL MORTGAGE

STATE OF ALABAMA)
BALDWIN COUNTY.)

I, Friedrich Ephardt, in consideration of Three hundred twenty-two & 50/100 Dollars paid by POULTRY FINANCE CORPORATION, a corporation, do bargain, sell, deliver and convey to said POULTRY FINANCE CORPORATION the following personal property now in Baldwin County, Alabama, to-wit:

Six hundred (600) Brown Leghorn laying hens

I warrant that the said property is free from all encumbrances and that I have a good right to sell the same.

Upon condition, however, that if I pay my certain promissory note bearing even date herewith, given to the said POULTRY FINANCE CORPORATION or order, for the said sum of Three hundred twenty-two & 50/100 Dollars with interest at the rate of 8 per cent, according to the tenor of said note, then this mortgage shall be void, but if default should be made in the payment of the principal or interest above mentioned, or any part thereof, then said POULTRY FINANCE CORPORATION is hereby authorized, to take possession of the above described personal property and advertise and sell the same at public sale to the highest bidder for cash after giving 10 days notice of the time and place of said sale by one notice posted at the door of the U. S. Postoffice in Foley, Baldwin County, Alabama, the said sale to take place either in front of the door of the U. S. Postoffice in Foley, Baldwin County, Alabama or where the property is situated at the time of the default. It is agreed that the said POULTRY FINANCE CORPORATION has the right to choose one of the above mentioned places as the sale of said property, and his choice shall be final and binding upon me. It is further agreed that the said property shall be at the place of sale at the time of the sale, whether sold at Foley in said Baldwin County, Alabama, or where the property is situated at the time of default. The proceeds of said sale shall be applied, first, to the payment of all costs of said sale, including a reasonable attorney's fee; second, to the amount due upon said note and interest; third, if any surplus remains, to be paid to the undersigned.

It is furth agreed that the mortgagor herein shall retain possession of the property as the agent of the mortgagee, until default.

in the payment of the mortgage debt hereby secured.

Executed this 21 day of April, 1930.

Witnesses:

L. A. Magney

Friedrich Ephardt. (SEAL)

STATE OF ALABAMA)
)
BALDWIN COUNTY.)

I, Lloyd A. Magney in and for the County and State aforesaid, hereby certify that Friedrich Ephardt whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the said mortgage he executed the same voluntarily on the day the same bears date.

Given under my hand this 21st day of April A. D. 1930.

Lloyd A. Magney
Notary Public.

EXHIBIT B

THIS INDENTURE, made the 26th day of November, 1930, between Mr. Freidrich Ephardt, of the first part, and Mrs. Margaret Ephardt, of the second part: WITNESSETH: that the party of the first part for and in consideration of One(\$1.00) Dollar and other consideration, dollars, hereby acknowledged to have been paid the party of the first part by the party of the second part, does grant, bargain, sell and convey unto said party of the second part, her heirs and assigns, all the real property in Baldwin County, Alabama, described as follows:

All and singular his one undivided right, title, share and interest of in and to the following described property, to-wit:

1st., The South one half ($S\frac{1}{2}$) of the Northeast quarter ($NE\frac{1}{4}$) of the Southeast quarter ($SE\frac{1}{4}$) of Section twenty-two (22) in Township Seven (7) South of Range Six (6) East of St. Stephens Meridian, otherwise known as the South one-half ($S\frac{1}{2}$) of Lot number Nine (9) of said section twenty-two (22), containing twenty-(20) acres, more or less, according to Government Survey and.

2nd:- Beginning at the Northwest corner of Section twenty-six (26) in Township Seven (7) South of Range six (6) East, running thence East 332 feet; thence South thirty (30) feet for a beginning corner; thence East 332 feet; thence South 1268 feet; thence West 332 feet; thence North 1268 feet to the place of beginning, containing ten (10) acres more or less.

Being the same property acquired by the said Freidrich Ephardt, together with his said wife, Mrs. Margaret Ephardt, respectively, on the 19th day of May, AD 1928, from Joh Weiperth, title registered in Baldwin County, Ala., in Book 45 N. S. page 125, and on the 15th day of September, AD. 1924, from Philip Ickler and wife, title registered in said County of Baldwin Ala., in book 35 N. S. page 105.,

Together with all the rights and appurtenances to said described premises in anywise belonging; To Have and To Hold the same forever

And the said Freidrich Ephardt, for himself and his heirs, the said described premises and appurtenances, will forever Warrant and Defend unto the said party of the second part, her heirs and assigns, against the lawful claims of all persons whatsoever.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year above written.

Signed, sealed and delivered
in the presence of

Freidrich Ephardt.

(Seal).

John G. Dentilich

Arthur J. Cuneo

State of Louisiana)

Parish of Orleans, County)

I, Alphhonse Joseph Cuneo, a Notary Public in and for said State and parish, do hereby certify that Mr. Freidrich Ephardt, a married man, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me, on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 26th day of November, 1930.

(Seal).

Alphonse J. Cuneo N. P.
Commission Expires at death.

The State of Alabama)

Baldwin County.)

) Probate Court.

Filed in office this 6th day of Dec. 1930 and duly recorded in Deed Book No. 50 N. S. page 233; and I certify that \$1 cts 00 license or privilege tax, paid as required by an Act of the Legislature, approved September 14, 1923.

G. W. Humphries, Judge of Probate, by
J. L. Kessler, Clerk.

POULTRY FINANCE CORPORATION,
A CORPORATION,
Complainant,

vs

FREIDRICH EPHARDT and MARGARET
EPHARDT,
Respondents.

(IN THE CHANCERY COURT OF
(
(
(BALDWIN COUNTY, ALABAMA.
(
(

IN CHANCERY.

Come the Respondents in the above styled cause and for answer to the Complainant's bill of complaint and to each count thereof separately and severally say:

FIRST:

That they admit that the Complainant is a corporation organized and existing under and by virtue of the laws of the State of Alabama, with its principal place of business in Baldwin County, Alabama, and that the said Respondents are over twenty-one years of age, but deny that they are non-residents of the State of Alabama, and on the contrary state that they are both residents of Lillian, in Baldwin County, Alabama; that they own and maintain a home in said place and that they are temporarily away from their home and intend to return to their home at Lillian, in Baldwin County, Alabama, to live permanently just as soon as the Respondent, Freidrich Ephardt, completes his course of study in New Orleans, Louisiana, where he is now attending school.

SECOND:

That they deny all the allegations contained in paragraph second of the said bill of complaint and demand strict proof thereof.

THIRD:

That they deny all the allegations contained in paragraph third of the said bill of complaint and demand strict proof thereof.

FOURTH:

That they deny all the allegations contained in paragraph fourth of the said bill of complaint and demand strict proof thereof.

FIFTH:

That they deny all the allegations contained in paragraph fifth of said bill of complaint and demand strict proof thereof. And for further answer to paragraph fifth they say that the deed from Freidrich Ephardt to Margaret Ephardt, conveying the land described in said bill of complaint, was for a good, sufficient and valuable consideration, in cash, passing from the said Margaret Ephardt to Freidrich Ephardt.

And for further answer to the Complainant's bill of complaint the Respondents say that the land described in the said bill of complaint, to-wit:

The South half of the Northeast quarter of the Southeast quarter of Section twenty-two, Township seven South, Range six East, and also beginning at the Northwest corner of Section twenty-six, Township seven South Range six East, run thence East three hundred thirty-two feet, thence South thirty feet for a beginning; thence East three hundred thirty-two feet, thence South twelve hundred sixty-eight feet, thence West three hundred thirty-two feet and thence North twelve hundred sixty-eight feet to the place of beginning;

was, on December 7, 1930, or the date of the filing of the said bill of complaint in the above cause, and is at this time, and was prior to the date of the filing of the said bill of complaint, the home and homestead of the said Freidrich Ephardt and Margaret Ephardt; that they have and maintain and are occupying a home on said property, however, they are at present temporarily absent therefrom, and have a tenant on said place using and maintaining the same for them, and that they intend to return to Lillian, in Baldwin County, Alabama, where the said property is located, and to use and occupy the same as their home; that the said land is less in area than one hundred and sixty acres, and less in value than two thousand dollars; that they claim the same as exempt to them as a homestead under the laws of the State of Alabama.

(X) Friedrich Ephardt
Respondent.

(XX) Margaret Ephardt
Respondent.
Deede & Hall
Sols for Respondents