

M. J. THOMPSON and MRS.
SADIE L. THOMPSON,

Plaintiffs,

vs.

DAVID CHAMBLESS,

Defendant.

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

And now comes the defendant and moves the Court to transfer this cause from the Law to the Equity side of the Court, for the reason that an equitable question, the decision of which should dispose of the cause, which cannot be disposed of in the Law side of the Court, depends upon the assertion of an equitable question or right or defense by the defendant, the substance of which is as follows:

That on the 5th day of January, 1922, the plaintiffs entered into a contract with the defendant to sell and convey to him, upon the performance of the conditions set out therein, a part of the land described in this cause, being as follows: The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East, Baldwin County, Alabama; that a copy of said contract is hereto attached, marked Exhibit "A" and asked to be made a part hereof as though incorporated herein in full.

That the defendant fully complied with the terms and conditions set out in said contract and demanded of the plaintiffs the execution of the deed as set out in said contract; that the defendant, upon calling upon the plaintiffs and demanding his deed in compliance with the contract, was told by the plaintiffs that they could not at that time comply with the conditions of the contract for the reason that they had been forced to execute a second mortgage against the land; the defendant at that time advised the plaintiffs that he had complied with all the terms

and conditions of his contract and wished the deed to the said lands so that he could go ahead and improve same; that though he fully complied with all the terms and conditions set out in said contract and has repeatedly demanded a deed from the plaintiffs in compliance with the contract, the plaintiffs have neglected or refused to give him such deed.

That subsequent to the time the defendant had fully complied with the terms and conditions of the contract hereinabove set out and demanded a deed in accordance with the terms thereof, he and the plaintiffs entered into an oral agreement whereby he was to purchase of the plaintiffs forty (40) acres of land, being described as the Southwest quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East, Baldwin County, Alabama, for and at the price of Two Thousand Dollars (\$2,000.00).

That as a part of such oral agreement it was agreed between the parties hereto that the original sixty (60) acres described in the contract had been paid for in full in accordance with the contract, and that the plaintiffs and the defendant would sell to the State of Alabama gravel to be used for surfacing highway and the moneys for such gravel to be received by the plaintiffs and delivered over to the defendant; that it was understood between the parties hereto, in the event the gravel did not pay for the said land, that they would together get a loan from the Federal Land Bank for enough to pay for said forty (40) acres; that in the event that a loan could not be secured, the contract was to be allowed to continue in force and effect until it could be paid off; that in compliance with the terms of said oral agreement the defendant went into possession of the said forty (40) acres, and application was made for a loan, which was refused for the reason that enough money could not be secured; that in accordance with the terms of said oral agreement the State of Alabama was permitted to remove gravel from the lands purchased by the defendant

from the plaintiffs, with the understanding that checks would be made from the State of Alabama to the plaintiffs and by the plaintiffs turned over to the defendant; that much gravel was removed from said land and the moneys paid over to the plaintiffs, the exact amount of which the defendant has been unable to ascertain from the plaintiffs, although having repeatedly made demands on them for such; that the amount of such credits cannot be determined without an accounting between the defendant and the plaintiffs.

That in addition to the amounts received by the plaintiffs from the State of Alabama and which were to be delivered over to the defendant, the defendant has paid to the plaintiffs approximately Seven Hundred Fifty-six and 50/100 Dollars (\$756.50), which was to be applied to the purchase of said forty (40) acres of land described as the Southwest quarter of the Northwest quarter of Section six (6), Township one (1) South, Range five (5) East; that the plaintiffs have received from the State of Alabama for gravel, to the credit of the defendant, and from the defendant direct, money equal to or in excess of the agreed purchase price of said forty (40) acres of land.

That he has repeatedly demanded of the plaintiffs an accounting to determine the status of the account between them relative to the said forty (40) acres of land; has offered and entered into a written agreement to arbitrate their differences and abide by the decision of the arbitrators, and although having done all this, the plaintiffs have and continue to refuse to comply with the terms of the said agreement.

That the defendant contends and earnestly submits that the plaintiffs have received more than the original contract price for said forty (40) acres of land; however, that the exact amount cannot be determined without an accounting between the plaintiffs and defendant.

WHEREFORE, the defendant moves that this cause may be transferred to the Equity side of the docket in order that the

equitable defense and rights above set forth may be availed of by the defendant, and that the Court may take jurisdiction of the cause for the full and final determination of the rights and liabilities of the parties affected thereby.

David C. Chambliss
Defendant.

Reese & Stace
Attorneys for Defendant.

STATE OF ALABAMA.

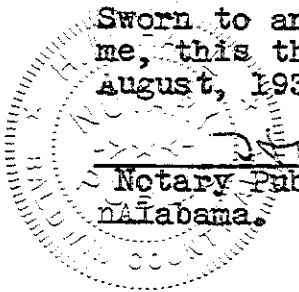
BALDWIN COUNTY.

I, David Chambliss, defendant in the above styled cause, have carefully read over and understand the allegations contained in the foregoing petition and know of my own personal knowledge that the facts alleged therein are true.

David C. Chambliss

Sworn to and subscribed before
me, this the 1st day of
August, 1933.

Wm. H. Stace
Notary Public, Baldwin County,
Alabama.



"EXHIBIT A"

STATE OF ALABAMA,)
BALDWIN COUNTY.)

This agreement made and entered into this 5th., day of January, 1922, by and between M. J. Thompson and Sadie L. Thompson, hereinafter referred to as the parties of the first part and David Chambless, hereinafter referred to as the party of the second part, WITNESSETH:

That for and in consideration of the sum of Thirteen Hundred (\$1300.00) to be paid as hereinafter stated, the said parties of the first part hereby agrees to convey to the party of the second part, his heirs or assigns, the following described lands, when the said party of the second part has complied in full with the terms of this contract, said lands being described as follows:

The Northwest Quarter of Northwest Quarter and the North half of Northeast Quarter of Northwest Quarter of Section Six, Township One South, Range Five East, Baldwin County, Alabama.

The parties of the first part hereby agree to convey the above described property free from encumbrance, excepting a mortgage to the Federal Land Bank covering this property and the said party of the second part hereby assumes the payment of Five Hundred Dollars of the said mortgage to the Federal Land Bank. The said conveyance of the above described property to be made on the 1st., day of November, 1922, provided the terms of this contract has been complied with, in full.

For and in consideration of the conveyance of the property above described the said party of the second part hereby agrees to pay the sum of Five Hundred Thirty-six and 50/100 (\$536.50) cash, the receipt of which is hereby acknowledged and to pay Five Hundred Dollars of the mortgage due or executed to the Federal Land Bank by the parties of the first part together with the interest accruing on the said sum of Five Hundred Dol-

lars yearly on the due date of the said payments, and to pay the balance of Two Hundred Sixty-three and 50/100 (\$263.50) as evidenced by one promissory note of even date herewith executed to the parties of the first part by the party of the second part bearing interest at the rate of six percent per annum, said interest and note being payable on the first day of November, 1922.

The said party of the second part is to have and take possession of the said premises immediately and to do and perform all stipulations of this contract as specified herein and upon default in the payment or any provision or stipulation herein contained this contract at the option of the parties of the first part may be declared forfeited by handing a written notice to the party of the second part of said default and if not complied with within three days after service of said notice, then the said forfeiture shall be considered final and it is hereby declared final by the parties hereto in the event of death of the party of the second part, then the notice above mentioned may be served upon any of his heirs.

In the event of default in any of the provisions of this contract and the parties of the first part declare same forfeited the party of the second part hereby agree to surrender possession of same at once and any payment he may have made hereunder shall be retained by the parties of the first part as rent.

Executed in Duplicate this 5th., day of January, 1922.

Sadie L. Thompson
M. J. Thompson
David Chambless.

WITNESSES:
as to Mrs. Thompson
and Mr. Chambless.

Henry D. Moorer.
T. W. Richerson.

Witnesses as to
Mr. Thompson.

Geo. Kupfrian.
A. W. Hawkinson.

February 23, 1940.

Memorandum to Mr. W. R. Stuart, Sheriff:

Following is

the property involved in the law or equity suit involved in the attached, and which is pointed out to you to sell:

The northwest quarter of the northwest quarter and the north half of the northeast quarter of the northwest quarter of section 6, township 1 south of range 5 east Baldwin County, Alabama.

Yours very truly,

20		
100		
50		
510		
680	Stone	3130
2450	Duck	680
		2450

CHANCERY EXECUTION

BILL OF COSTS

No. 1092

Winfield S. Chambers, as Admin of Estate of
David Chambers, deceased

Plaintiff

M. J. Thompson and Sadie Thompson Defendant

FEES OF REGISTER		Dollars	Cents	Brought Forward	
Filing each bill and other papers	\$ 10	1	80	For Receiving, keeping and paying out or distributing money, etc.; 1st \$1,000, 1% all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	\$ 15 55
Issuing each subpoena	50			Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Issuing each copy thereof	40			Each notice sent by mail to creditor	15
Entering each return thereof	15			Filing, receipting for and docketing each claim, etc.	25
For each order of publication	1 00	1	00	For all entries on subpoena docket, etc.	50
Issuing writ of injunction	1 50			For all entries on commission docket, etc.	50
For each copy thereof	50			Making final record, per 100 words	15
Entering each return thereof	15			Certified copy of decree	1 00
Issuing Writ of Attachment	1 00			Report of divorce to State Health Office (Acts 1915)	50
Entering each return thereof	15			Total Fees of Register	31 30
Docketing each case	1 00	1	00	FEES OF SHERIFF	
Entering each appearance	25		50	Serving and returning subpoena on deft.	\$1 50
Issuing each decree pro confesso on per. ser.	1 00			Serving and returning subpoena for witness	65
Issuing each decree pro confesso on publica.	1 00			Levying attachment	3 00
Each order appointing guardian	1 00			Entering and returning same	25
Any other order by Register	50			Selling property attached	75
Issuing commission to take testimony	50			Impaneling Jury	2 50
Receiving and filing	10	3	00	Executing writ of possession	1 50
Endorsing each package	10		30	Collecting execution for costs	65
Entering order submitting cause	50		50	Serving and returning sci. fa., each	65
Entering any other order of court	25	3	00	Serving and returning notice	65
Noting all testimony	50		50	Serving and returning writ of injunction	1 50
Abstract of cause, etc.	1 00		75	Serving and returning writ of exeat	1 50
Entering each decree	75			Taking and approving bonds, each	75
For every 100 words over 500	15			Collecting money on execution	2 50
Taking account, etc.	3 00			Making deed	1 00
Taking testimony, etc.	15			Serving and returning application, etc.	1 50
Each report, 500 words or less	2 50			Serving attachment, contempt of court	1 50
For every 100 words over 500	15			Total Fees of Sheriff	\$3 50
Amount claimed less than \$500, etc.	2 00			RECAPITULATION	
Issuing each subpoena	25			Register's Fees	31 30
Witness certificate, each	25			Sheriff's Fees	350
Issuing execution, each	75			Commissioner's Fees	1500
Entering each return	15			Solicitor's Fees	
Taking and approving bond, each	1 00			Witness Fees	
Making copy of bill, etc.	15			Guardian Ad Litem	
Each notice not otherwise provided for	50			Printer's Fees	
Each certificate or affidavit with seal	50			Trial Tax	3 00
Each certificate or affidavit, no seal	25			Recording Decree in Probate Court	
Hearing and passing on application, etc.	3 00			Total	\$52 80
Each settlement with receiver, etc.	3 00				
Examining each voucher of Receiver, etc.	10				
Examining each answer, etc.	3 00				
Recording resignation, etc.	75				
Entering each certificate to Supreme Court	50				
Taking questions and answers, etc.	25				
For all other ser relating to such proceedings	1 00				
For services in proceeding to relieve minors, etc. same fee as in similar cases.					
Commission on sales, etc: 1st \$100, 2 per ct.; all over \$100 and not exceeding \$1,000, 1 1-2 per ct: all over \$1,000, and not exceeding \$20,000, 1 per ct.; all over \$20,000, 1-4 of 1 per ct.					
Sub Total Carried Forward		15	55		

The State of Alabama,

No. 1092

Baldwin County.

Circuit Court, In Equity

Nov 29 Term, 1938

To Any Sheriff of the State of Alabama—GREETING:

You are hereby commanded, That of the goods and chattels, lands and tenements of

M. J. Thompson and Sadie L. Thompson Defendant S.

you cause to be made the sum of \$5520 Dollars,

which Plaintiff

recovered of on the day of 193

by the judgment of our Circuit Court, held for the county of Baldwin, besides the sum of

\$5280 Dollars,

costs of suit, and have the same to render to the said and make return of this Writ and the execution thereof, according to law.

Interest from 193 to date of collection.

Witness my hand, this day of 193

Register.

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambliss, deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NUMBER 9839.

This cause coming on to be heard was submitted upon the Complainant's original and amended Bill of Complaint; Respondents' answer, and pleadings and proof as noted by the Register.

It appearing to the Court that on to-wit, January 5th, 1922, the Respondents entered into a contract wherein and whereby they agreed to convey to the Complainant the Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, for the sum of Thirteen Hundred (\$1300.00) Dollars; that the Complainant has paid on said contract, and in accordance with the terms thereof, the sum of Eight Hundred (\$800.00) Dollars, leaving a balance due thereon of Five Hundred (\$500.00) Dollars; that in and by said contract, the Respondents were to convey said property to the Complainant upon the payment of Eight Hundred (\$800.00) Dollars, subject to a balance of Five Hundred (\$500.00) Dollars due the Federal Land Bank of New Orleans, which the Complainant was to assume and pay;

And it appearing further to the Court that since the execution of said contract, the Respondents have executed a second mortgage to McMillan & Harrison Company, which renders it impossible for them to convey the said property in accordance with the terms and conditions of said contract,; and that the Complainant has paid to the Respondents, under and in accordance with the terms of the said contract, the sum of Eight Hundred (\$800.00) Dollars on the purchase price of said property;

The Court, after understanding and considering the matter, is of the opinion that the Complainant is not entitled to specific performance of the contract, but that the Respondents are indebted to the Complainant in the sum of Eight Hundred (\$800.00) Dollars, after allowing all payments, discounts, set-offs and counterclaims;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complainant, Winfield S. Chambliss, as Administrator of the Estate of David Cham-

bles, deceased, have and recover of the Respondents, Sadie L. Thompson and
M. J. Thompson, the sum of Eight Hundred (\$800.00) Dollars;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Respondents pay
the costs of this proceeding for which let execution issue.

Done at Monroeville, Monroe County, Alabama, this 29th day

of November, 1933.

J. M. Hare
Judge.

Wingfield & Thompson
 we
 Basil A. Thompson
 M. F. Thompson

11-29-38

33
 45

State of Alabama,
 Probate County.

Filed to return this day DEC 31 1938

at 1130 AM

in A.C.C. Book No. 67 at page 387

and I certify that I

and a [unclear] box, and

been paid as required by law.

W. H. Duck
 Judge of Probate

Filed November 29, 1938

W. H. DUCK

clerk, - register

By *W. H. Duck*
 Deputy

Clark County 60

DAVID CHAMBLISS,

Complainant,

~~VS.~~

M. J. THOMPSON and MRS.
SADIE L. THOMPSON,

Defendants.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Now come the Respondents and for demurrer to the Bill of Complaint filed in this cause, say:-

1st. That there is no equity in the Bill of Complaint.

2nd. That it affirmatively appears that the alleged agreement as to the property described in the sixth paragraph of said Bill of Complaint was oral.

3rd. Before a Contract can be binding upon a wife as to her real estate the husband has to consent in writing as provided by statute.

4th. That said alleged agreement set forth in paragraph 6 is of no force and effect, in view of the fact that it was an oral agreement.

1 by Bart, Head of Has
Attorneys for Respondents.

9839

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Book

DEMURRER.

DAVID CHAMBLISS,

Complainant,

-VS-

M. J. THOMPSON and MRS.

SADIE L. THOMPSON,

Defendants.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed February 18, 1935

Robert L. Allen
Register.

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WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambless, Deceased,

Complainant,

-vs-

SADIE L. THOMPSON ET AL.,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

We hereby acknowledge ourselves as security for costs
in the appeal by the Respondents to the Supreme Court of Alabama,
from that certain judgment rendered by the Judge of the Twenty-
first Judicial Circuit on the 29th day of November, 1938.

Mrs. Sadie L. Thompson (SEAL)
W. J. Thompson (SEAL)
C. L. Thompson (SEAL)
A. N. Schrock (SEAL)

Approved this 25th day of
May, 1939.

J. S. Duck
Register in Chancery.

Appeal Bond

Filed May 23 - 1939
R.S. Duch Register
By - Wandrice Thompson
Deputy

[illegible]

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The page contains handwritten notes in cursive script, organized into columns by vertical lines. The text is dense and fills most of the page. Some entries are crossed out or corrected. The handwriting is a cursive script, likely from the 18th or 19th century.

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WINFIELD S. CHAMBLESS,
Administrator,

Complainant,

VS.

MRS. SADIE L. THOMPSON,
ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

BRIEF OF THE COMPLAINANT ON EXCEPTIONS TO
REGISTER'S REPORT.

This cause is submitted on the exceptions filed by the Respondents to the Report of the Register made in accordance with the decree of this court on May 27th, 1936.

The Register, on January 27th, 1937, filed his report, setting out the fact that the Complainant is due the Respondents the amount of Five Hundred (\$500.00) Dollars on the purchase price of the sixty (60) acre tract, described as: The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East.

The Court will probably wonder why the Register's Report was not made more in detail. However, on behalf of the Register, we wish to state that soon after testimony on reference was taken, the Solicitors of record for the Complainant and the Respondents appeared in the office of the Register and consented that the Register file his report reciting a balance due by the Complainant to the Respondents of Five Hundred (\$500.00) Dollars

on the original contract. This the Register did.

This proceeding, as set out under briefs originally filed, arose over two separate and distinct contracts entered into between David Chamblless, deceased, and the Respondents herein. The one contract covering sixty (60) acres and a subsequent contract covering another forty (40) acres. It was agreed between the parties, and a decree has been entered, that the Complainant was not entitled to relief as to the forty (40) acre tract and that the title thereto was vested in the Respondents. The contract conveying the land in question, dated January 5th, 1922, sets out the purchase price to be Thirteen Hundred (\$1300.00) Dollars, Five Hundred Thirty-six and 50/100 (\$536.50) Dollars of which was paid in cash, a note given for Two Hundred Sixty-three and 50/100 (\$263.50) Dollars, and the balance of Five Hundred (\$500.00) Dollars to be paid by the assumption of a mortgage of that amount against said land to the Federal Land Bank of New Orleans.

It must be borne in mind, as set out in the testimony of the parties, that David Chamblless, the original party to the suit, is now dead, and that the testimony of Mrs. Thompson and her son are to be taken in the light of their interest in the subject matter of the suit and with the legal principle in mind that their testimony is against the Administrator of a deceased party.

We also wish to call the attention of the Court to the testimony of Mrs. Thompson and her son, in the original proceeding, and the glaring discrepancies between their testimony and the testimony given by them on the matter of reference, after a decree had been given awarding them the forty (40) acres in question.

We find, according to the testimony of Lenoir Thompson, page 7 of the testimony taken November 21st, 1935, in which he sets out that the considera-

tion under the first contract was Thirteen Hundred (\$1300.00) Dollars.

(This contract covers the land in question); that under the said contract Mr. Chambless was given credit for Five Hundred Thirty-six and 50/100

(\$536.50) Dollars, and that in addition to that, Two Hundred Sixty-three and 50/100 (\$263.50) Dollars was paid. Under the terms of the contract Mr.

Chambless was at that time entitled to a deed to the sixty (60) acres in question. According to the testimony of the witnesses, he demanded his

deed and such demand was refused because Mrs. Thompson was unable to de-

liver title for the reason that she had executed a second mortgage to the

McMillan-Harrison Company. Mrs. Thompson at that time persuaded Mr. Chamb-

less to agree to purchase an additional forty (40) acres of land, at a price of Two Thousand (\$2,000.00) Dollars. This contract was separate and apart

from the original contract, and it is our opinion that the decree of the

Court heretofore made in this cause establishes that fact beyond all question.

Why didn't Mrs. Thompson, in accordance with the terms of the contract, execute a deed to Mr. Chambless upon the payment of Two Hundred Sixty-three and 50/100 (\$263.50) Dollars, and in accordance with the terms and conditions of the contract?

The Respondents admit several and distinct payments by the Complainant to them, but now contend that those payments were made by the Complainant and credited by the Respondents on the supplemental, oral, contract covering the forty (40) acres, which the Court has decreed belonged to the Respondents.

If their contention is correct, then how do they explain the fact that these additional payments were credited against an oral contract rather than an original, written and prior, contract? We submit that they now, having secured a decree to the forty (40) acre tract, are trying to side-step the

true facts in the case and persuade the Court to rob the Complainant's Estate of that property which they are justly and legally entitled to.

The Respondents set up and claim certain taxes and other payments made by them. However, under the contract, we submit, that the Complainant having made the payments and complied with the terms and conditions of the original contract and demanded a deed, the Respondents were bound to deliver title, and any subsequent payments made by them could not be set up as a charge against the land which the Complainant had paid for.

It must also be borne in mind that all of this testimony is testimony against the interest of a deceased party.

A study of the testimony of the Respondent, and her witness, also discloses the fact, in fact, it is admitted by the Respondents, in the original testimony, that the Complainant had paid to or for the credit of the Respondents on the contract of purchase, Five Hundred Thirty-six and 50/100 (\$536.50) Dollars, in cash, Seventy-five or Eighty-five (\$75.00 or \$85.00) Dollars (Page 4), Four Hundred Ninety-six (\$496.00) Dollars for gravel (page 4), Forty (\$40.00) Dollars at one time (Page 10), One Hundred Thirty-two and 60/100 (\$132.60) Dollars, fertilizer account (Page 10), Five (\$5.00) Dollars to Red Bryars (Page 10), Ninety (\$90.00) Dollars credit for corn (Page 10), Five (\$5.00) Dollars, Red Bryars (Page 10), Sixty-five (\$65.00) Dollars, credit on a mowing machine (Page 11), Fifteen (15.00) Dollars to Mr. Moorer, for the Respondent (Page 11); making a total paid by the Complainant to the Respondents on the original contract, now in question, of Fourteen Hundred Sixty and 10/100 (\$1460.10) Dollars. *the rest on property was paid under the*

We respectfully submit that these payments which were admitted by the Respondents in their testimony of November 21st, 1935, show that the original contract between the Complainant and the Respondents, in which there was in-

volved the sixty (60) acres of land now in question, and being described as: The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, in Baldwin County, Alabama, has been fully complied with, and, in fact, more than complied with, and that the Complainant is entitled to relief as against the Respondents.

While it is our contention that the Complainant is entitled to relief as against the Respondents without the payment of any amount, yet we are bound to stand by our agreement made in the presence of the Register, and that we respectfully submit that we are now entitled to the relief prayed for as against the Respondents upon a compliance of the decrees of this Court, and we submit that a decree of this Court should be made and that the Report of the Register should be in all things confirmed, and that the Respondents should now be required to convey the said property to the Complainant, free from all liens and encumbrances of all kinds, upon the payment of Five Hundred (\$500.00) Dollars.

Respectfully submitted,

BEEBE, HALL & BEEBE,

By: *Wm. S. Beebe*
Solicitors for Complainant.

WCH/J

WINFIELD S. CHAMBLESS, As
Administrator,

Complainant,

VS.

M. J. THOMPSON, et al,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 9839.

REGISTER'S REPORT.

Complying with the decree rendered in the above styled cause on the 27th day of May, 1936, the Register begs leave to state an account as follows:

That the Complainant is due the Respondents the amount of FIVE HUNDRED & NO/100 (\$500.00) DOLLARS, on the purchase price of the sixty (60) acre tract, described as follows: The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South, Range 5 East, in Baldwin County, Alabama.

Given under my hand and seal on this the 27th day of January, 1937.



Register.

REGISTER'S REPORT.

WINFIELD S. CHAMBLESS, As
Administrator,
Complainant,
VS.

M. J. THOMPSON, et al,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 9839.

Filed in office this 27th day
of January, 1937.

R. B. Nuck,
Register

REGISTER'S REPORT.

WINFIELD S. CHAMBLESS, As
Administrator,
Complainant,
VS.

M. J. THOMPSON, et al,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 9839.

Filed in office this 27th day
of January, 1937.

R. B. Nuck
Register

DAVIS CHAMBLESS,

Complainant,

VS.

M. J. THOMPSON AND SADIE
L. THOMPSON,

Respondents.

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

Now comes the Respondents in the aforesaid cause and separately and severally excepts to the Register's report made on the 27th day of January, 1937, to the effect that the Complainant is entitled to a conveyance by the Respondents on the payment of FIVE HUNDRED (\$500.00) DOLLARS to them, being the balance due on the purchase price of the lands mentioned therein, and respectfully calls the the attention of the Court in support of this exception:

1. That it was conditioned in the agreement as shown by Exhibit "A" to the bill of Complaint that upon a default in the payment or any provision or stipulation in said agreement between said Sadie L. Thompson, M. J. Thompson and David Chambléss relative to the purchase of the lands involved in this suit that at the option of the Respondents they could declare forfeited any rights under said contract, a copy of which is set forth as Exhibit "A" to the Bill of Complaint, by handing writting notice to the party of the second part; that is, David Chambléss, of said default and if not complied with within three days after service of said notice that then the said forfeiture should be considered final. That in the event of default in the provisions of said contract and the parties of the first part declared the same forfeited, the party of the second part agreed to surrender possession of said lands and that any payments he may have made thereunder shall be retained by the parties of the first part as rent.

The evidence of Charles Lenoir Thompson taken before Miss Mary F. Greene, as Commissioner, on the 24th day of June, 1936, and which is uncontradicted, see pages 1 to 8 inclusive, discloses that

on February 23, 1933, that David Chambless was in default as to said contract, a copy of which is exhibit "A" to the Bill of Complaint, and that on that day that a written notice in words and figures as follows was served upon the said David Chambless:

Bay Minette, Alabama,
Feb. 25, 1933

To

David Chambless:

Notice is hereby given that you have defaulted in the payment and defaulted in the provisions and other stipulation contained in the contract executed by you on January 5 1922, and we have elected to declare the contract forfeited and handing you this written notice to comply with the said contract within the time specified therein, and you failing to do so within the time that is required, the forfeiture will be final and your rights if any, to the said property will be terminated, the property being described as follows:

The Northwest Quarter of Northwest Quarter,
The North Half of Northeast Quarter of the
Northwest Quarter of Section 6, Township One,
South, Range Five East, Baldwin County, Alabama.

Thanking you to comply with the terms of the contract within the time therein, vacating the property and surrendering possession to the undersigned,

We are,

That the evidence of Charles Lenoir Thompson further discloses that the said David Chambless continued in default up until the time of his death; that the evidence in the case discloses that there has been a forfeiture by the said David Chambless; that the option to declare the contract forfeited was exercised by Mrs. M. J. Thompson, the owner of the land and that said contract was forfeited, and that Mrs. M. J. Thompson is entitled to the lands described in the aforesaid notice, and that there is no question involved as to the balance due on the purchase price, as there is no contract now existing between David Chambless, or his representative, and the said Sadie L. Thompson and M. J. Thompson as to the conveyance of said

property because the same has been forfeited and leaving no contract to be specifically performed.

2. That in the event the said Respondents are mistaken in their rights under said stipulation, or forfeiture, etc., detailed in the first exception, Respondents say that the report of the Register is founded in error to the effect that the Complainant is only due Respondents FIVE HUNDRED (\$500.00) DOLLARS on the purchase price of the lands mentioned in said report and for grounds of exception, say that the purchase price due the Respondents, if there has been no forfeiture, is an amount over ELEVEN HUNDRED (\$1100.00) DOLLARS. That the testimony of Sadie L. Thompson and Charles Lenoir Thompson, which the Respondents respectfully calls the Court's attention to, the same having been taken before Miss Mary F. Greene, as Commissioner, on November 21, 1935, and on June 24, 1936, together with the Exhibits to said testimony.

The evidence of the aforesaid witnesses disclose that the consideration agreed to be paid for the aforesaid property in 1922 by David Chambless was THIRTEEN HUNDRED (\$1300.00) DOLLARS. This is also shown by Exhibit "A" of the bill of complaint, which is a copy of said contract, and which the Court's attention is directed to.

The testimony of these witnesses further show that at the time that said sale or purchase was made David Chambless paid the Respondent, Sadie L. Thompson the sum of FIVE HUNDRED THIRTY-SIX AND 50/100 (\$536.50) DOLLARS and agreed to assume a mortgage indebtedness to The Federal Land Bank of New Orleans of FIVE HUNDRED (\$500.00) DOLLARS, which the said David Chambless has failed to do. That at the same time he executed to Mrs. Thompson a note in the sum of TWO HUNDRED SIXTY THREE AND 50/100 (\$263.50) DOLLARS, and bearing interest to its maturity at 6% per annum. The evidence further discloses that in 1925, David Chambless paid to Sadie L. Thompson FORTY (\$40.00) DOLLARS; that in 1930 David Chambless paid said Sadie L. Thompson

EIGHTY FIVE (\$85.00) DOLLARS on the purchase price of the aforesaid land, and at her request during the year, he paid Henry Moorer FIFTEEN (\$15.00) DOLLARS for her and that Chambless also delivered to her during that year 44½ bushels of corn at \$1.25 per bushel, and a mowing machine at \$65.00, making a total credit of \$260.68. That in addition to the purchase price of THIRTEEN HUNDRED (\$1300.00) DOLLARS, she has paid over a period extending from 1922 up to and through 1935, the tax on said lands amounting to \$157.88. See exhibit C. to the testimony of Mrs. M. J. Thompson taken on November 21, 1935, before Miss Mary F. Greene, as Commissioner. That the principal and interest on the alleged indebtedness, less the payments would amount, as we have stated, to more than ELEVEN HUNDRED (\$1100.00) DOLLARS and said report of the Register is founded in error to that extent.

Robert J. Ransom
Attorneys for Respondents.

David Chambliss,

vs.

M.J. THOMPSON, ET AL.,

M.J. Thompson, et al.

Exceptions to Register's
report

Filed Feb 6th 1937

J.W. Hail
Judge

WINFIELD S. CHAMBLESS, as Ad-
ministrator of the Estate of
David Chambliss, Deceased,
Complainant,

-vs-

M. J. THOMPSON and SADIE L.
THOMPSON,

Respondents.

IN THE CIRCUIT COURT--IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

This matter coming on to be heard on the Report of the
Register, the Respondents are given five days in which to file
Exceptions to the Report of the Register.

Dated this 3rd day of February, 1937.

P. W. Hare
Judge.

ORDER.

WINFIELD S. CHAMBLESS, as Ad-
ministrator of the Estate of
David Chambliss, Deceased,

Complainant,

-VS-

M. J. THOMPSON and SADIE L.
THOMPSON,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Issued February 3, 1937

As Deed
Register.

DAVID CHAMBLESS,

Complainant,

-VS-

M. J. THOMPSON and SADIE
L. THOMPSON,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

It is agreed by and between the parties, through their Solicitors of Record, that Mary F. Green is to act as Commissioner & Charles Lenoir Thompson, in taking the testimony of Mrs. Sadie L. Thompson, and is to take the said testimony down in shorthand and is to transcribe the same, and to furnish a copy of the testimony so taken which is to be taxed as a part of the costs, to Beebe & Hall, Solicitors for Complainant, and Hybart & Chason, Solicitors for Respondents; that the signing of the testimony by the witness and the issuance of a commission to Mary F. Green is hereby waived.

Dated this 21st day of November, 1935.

Beebe & Hall
Solicitors for Complainant.

Hybart & Chason
Solicitors for Respondents.

TESTIMONY OF MRS. SADIE L. THOMPSON. DIRECT EXAMINATION BY HON.
C. L. HYBART, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: This Mrs. Sadie L. Thompson?

A: Yes.

Q: Are you one of the Respondents in this matter?

A: Yes.

Q: Where do you live Mrs. Thompson?

A: At Perdido.

Q: Are you more than twenty-one years of age?

A: Yes.

Q: Mr. M. J. Thompson your husband?

A: Yes.

Q: Is he more than twenty-one years of age?

A: Yes.

Q: Did you know Mr. David Chambless in his lifetime?

A: Yes.

Q: Did you enter into a written contract with him in regard to the sale to him of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, containing 60 acres, more or less, on about January 5th, 1922?

A: Yes.

Q: Were you the owner of the lands at that time?

A: Yes.

Q: Did Mr. David Chambless go into possession of the same at that time?

A: Yes.

Q: What was the consideration for this contract?

A: \$1300.00 total.

Q: How was it to be paid Mrs. Thompson?

A: He made a cash payment of Five Hundred and some odd dollars.

Q: Was it \$536.50?

A: Well, that amount.

Q: Well what was it, a cash payment you say?

A: It was considered a cash payment. It was a note, a fertilizer bill and interest that I owed, \$536.50.

Q: You owed Mr. Chambless that much, the fertilizer bill and interest totalled that amount?

(page two)

A: Yes.

Q: How was the balance to be paid?

A: He was going to pay the Federal Land Bank, assume the payment of \$500.00 and interest.

Q: He was to pay the Federal Land Bank \$500.00?

A: Yes.

Q: When was he to pay that?

A: When the payments would come due, January 1st of each year.

Q: There was a Mortgage on this land to the Federal Land Bank?

A: Yes.

Q: Were there other lands included in the Mortgage?

A: Yes.

Q: And he was to make a payment of \$500.00 as the payments came due on the lands?

A: Yes, and the interest.

Q: Did he pay that \$500.00?

A: No.

Q: Now then, that would account for \$1036.50 of the purchase price now what about the balance of the payment, how was he to pay that?

A: He was to pay me. He was to make a payment every year and interest.

Q: How many years would he have to pay it in?

A: Well he was to pay on the 1st day of November, 1922, make a payment.

Q: Now did you all enter into a written contract?

A: On this? Yes.

Q: Who prepared the contract for you?

A: Mr. Moorer.

Q: Henry D. Moorer, Attorney here?

A: Yes.

Q: Is this the contract that you all entered into?

A: Yes, this is my signature.

Mr. Hybart: We introduce the contract entered into by and between Sadie L. Thompson, M. J. Thompson and David Chambless on the 5th day of January, 1922, in regard to the lands heretofore inquired about, into evidence, and ask that the commissioner mark the same Exhibit "A" to Mrs. Thompson's testimony.

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(page three)

Q: Now has Mr. David Chambless paid you any moneys on this contract that we have just inquired about, which is Exhibit "A" to your testimony, other than the \$536.50 which was the fertilizer account?

A: He paid it down, including that \$500.00 to the Federal Land Bank, down to about \$710.00.

Q: When was that?

A: It was about 1924.

Q: Since that time has he made any payment on that?

A: Not on that piece.

Q: Now later on, did you and Mr. David Chambless have another contract?

A: Yes.

Q: In regard to land?

A: Yes.

Q: Was that in regard to the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East?

A: Yes.

Q: When was that Mrs. Thompson?

A: It was in '27 or '28.

Q: 1927 or 8. Was that contract in writing?

A: Verbal.

Q: Did you own the Southwest Quarter of Northwest Quarter of Section 6, Township 1 South, Range 5 East?

A: Yes.

Q: That was your property?

A: Yes.

Q: All of this land in here was your property, not Mr. M. J. Thompson's property?

A: Yes.

Q: It was your land?

A: Yes.

Q: Now what was the agreement, the oral agreement between you and Mr. Chambless?

A: I wanted to settle this first, get the balance.

Q: What was your oral agreement in regard to this land here?

A: Just the forty? Well he was to add that to the other deal and give me \$2000.00 for this land with the balance owed on the other land.

Q: In other words you figured \$2000.00 for this 40 acres?

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(page four)

A: Yes.

Q: And did he pay you the \$2000.00?

A: No.

Q: On a payment of \$2000.00 you were to make him a Deed?

A: In conjunction with the other.

Q: When he paid the indebtedness you were to make him a Deed?

A: When he paid his total indebtedness I would make him a Deed for all of it.

Q: That would be \$2710.00 with interest on the \$710.00 from 1924?

A: Yes.

Q: Did he ever pay you the \$2000.00 or any part of it?

A: He paid me \$75.00 or \$85.00 on that \$2000.00, specifically stipulated.

Q: When did he pay you that Mrs. Thompson?

A: It was in the winter, in the early spring, about January or February, I believe, of 1930.

Q: Now at the time that you entered into this contract, oral contract, in regard to the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, did you put him in possession of it?

A: Yes.

Q: And then was any gravel sold off of this land?

A: Yes.

Q: How much gravel was sold off it?

A: Something over four hundred dollars worth.

Q: Can you get the exact amount?

A: I think it was \$496.00.

Q: Who was that sold to?

A: The State.

Q: Did you get the money?

A: Yes.

Q: Did you advance, did you return any money to Mr. Chambless?

A: Yes.

Q: What was the understanding in regard to the gravel?

A: That it was to put a house on this other land so he could borrow from the Federal Land Bank. He built a smokehouse, finished a crib and--

Q: You mean this land, SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East? When you refer to "this other land" is that the land you mean? Where was the house to be located?

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A: That wasn't stipulated, but it was put on the SW $\frac{1}{4}$.

Q: SW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 6, Township 1 South of Range 5 East? How much money did you turn over to Mr. Chambless out of the proceeds of this gravel?

A: I gave him \$35.00 at one time and around one Hundred Dollars at another time. I don't remember the exact amount.

Q: What year was it you sold the gravel to the State?

A: It was when they were putting that highway through there. Wasn't it '28?

Q: Have you got any record there you could get that from? What's your best recollection of it?

A: When they were putting that highway through there.

Q: To your best recollection, about what year was it?

A: It was '28, I think.

Q: Was it before 1930?

A: Oh yes.

Q: Have you ever made a Deed to David Chambless for any of this property?

A: No.

Q: You and your husband never entered into a written contract with him in regard to this last mentioned property?

A: No.

Q: That is, the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South, Range 5 East?

A: It was verbally fused with the original deal.

Q: Just a verbal understanding between you and Chambless. Was M. J. Thompson present at the time you had the understanding?

A: No.

Q: Now in 1932 did you turn your matters over to Mr. Henry D. Moorer, your matters with David Chambless, over to Mr. Henry D. Moorer, Attorney here in Bay Minette, to adjust for you with Mr. Chambless?

A: Yes.

Q: Did you and Mr. Chambless meet at Henry D. Moorer's office in the town of Bay Minette in an effort to get an adjustment of this indebtedness for these lands?

A: Yes.

Q: Was that on February 2nd, 1932?

A: Yes.

Q: Did you all enter into an agreement there; that is, ~~you~~, David Chambless and yourself, enter into an agreement as to the amount of money that David Chambless owed you on these two tracts of land that you have testified about?

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A: Yes.

Q: Was that agreement reduced to writing?

A: Yes.

Q: David Chambless signed it and you signed it?

A: Yes.

Q: You know David Chambless' signature?

A: Yes.

Q: Is that his signature?

A: Yes.

Q: And was it agreed there between you and him on that day in Mr. Henry D. Moorner's office that he was indebted to you, or that the balance due on the purchase money on the lands, was \$2000.00?

A: Yes.

Q: Who prepared the agreement, do you know?

A: Mr. Moorner was there, and Mr. David Chambless wrote it, I think.

Q: Mr. David Chambless wrote it?

A: We made a sketch and then he wrote it. No, Mr. Moorner wrote that.

Q: Do you know Mr. Moorner's handwriting?

A: No, I don't.

Q: It was prepared there in Mr. Moorner's office and you and David Chambless signed it?

A: Yes.

Q: You say you are not certain it is Mr. Moorner's handwriting?

A: I think it is.

Q: You think Mr. Moorner prepared the agreement?

A: Yes.

Q: And you all agreed there that on the two pieces of land; that is, the sixty acres of land and the forty acres of land, that you all had contracted to sell him, that he was then due you \$2000.00?

A: Yes.

Q: Has he paid you any part of that since that time?

A: No.

Q: The \$2000.00, plus the interest from that time, is the amount he is due you on the land?

A: Yes.

Mr. Hybart: We introduce that agreement between David Chambless and Mrs. M. J. Thompson, dated February 2nd, 1932, and ask that it be marked as Exhibit "B" to Mrs. Thompson's testimony.

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CROSS-EXAMINATION BY HON. HUBERT HALL, ONE OF THE SOLICITORS FOR
COMPLAINANT.

Q: Mrs. Thompson, originally on January 5th, 1922, is when you and Mr. M. J. Thompson and Mr. David Chambliss entered into a contract with reference to the sixty acre parcel of land, wasn't it?

A: Yes.

Q: And you state that \$536.50 was paid in cash?

A: The Note, yes, my fertilizer bill.

Q: Now some time after that Mr. Chambliss came down to your store in Perdido to comply with the terms of this contract and demanded a Deed, didn't he?

A: Yes.

Q: At that time didn't you tell him that you were not in position to execute the Deed, that there were other papers against the land, but that you wanted to sell him an additional forty acres of land?

A: No.

Q: And didn't you at that time enter into a separate and distinct contract, oral, with him to sell him forty acres of land described as the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East at \$2000.00?

A: No.

Q: You did not? You don't remember that he and Mr. Will McMillan, who is Mr. Chambliss' son-in-law, came down there and asked you about that land?

A: I don't remember.

Q: And you told them at that time that you were not in position of making the conveyance by reason of a second encumbrance against it, and that you wanted to sell him this forty under a separate contract?

A: No.

Q: This contract on the forty acres was separate and distinct from the original contract wasn't it?

A: No.

Q: Did you intend to incorporate it in this first contract?

A: Yes.

Q: Did you reduce this second contract to writing?

A: No.

Q: \$2000.00 was the agreed price for the second contract?

A: \$2000.00 for the forty with the balance due on the sixty.

Q: Was he to pay you \$2000.00 for the forty acres, SW $\frac{1}{4}$ of NW $\frac{1}{4}$, or was he to owe you a balance of \$2000.00 on the forty and on the sixty? Just tell me, was he to pay you \$2000.00 for the forty or was the \$2000.00 to cover the purchase price on the forty and the balance due on the sixty?

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(page eight)

A: \$2000.00 on the forty and the balance due on the sixty.

Q: \$2000.00 included the amount due you for the Federal Land Bank, and the balance of \$263.50 due you, and the purchase price of the forty, is that right, or did you agree that \$2000.00 was to be the purchase price of the forty?

A: \$2000.00 for the forty with the balance due on the sixty, made in one deal.

Q: Was he to pay the balance due on the sixty in addition to the \$2000.00?

A: Yes.

Q: The \$2000.00 then was the purchase price of the forty?

A: Yes.

Q: Now this balance of \$263.50 on the original sixty acre contract was evidenced by a Note, wasn't it?

A: Yes.

Q: Where is that note?

A: It burned when my home burned.

Q: Have you a copy of it?

A: No.

Q: You have nothing in writing to evidence that, other than the contract?

A: No.

Q: Now when they were building the road up there they bought a right of way didn't they, the county, for this highway?

A: Yes.

Q: That went across the sixty?

A: Yes.

Q: \$100.00 was paid for that?

A: Mr. Chambless got the money.

Q: Was \$100.00 paid for it?

A: I do not know.

Q: Do you know who deeded it to the county, Mrs. Thompson?

A: I do not know, because I did not.

Q: You didn't deed it?

A: No.

Q: You got no part of that consideration?

A: No.

Q: \$100.00 was the purchase price, wasn't it?

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A: I do not know. I know that he got some money.

Q: Now you say that you sold gravel to the State amounting to \$496.00?

A: Yes.

Q: You collected that amount?

A: Yes.

Q: Of that amount you turned over to Mr. Chambless \$135.00 in cash?

A: As I remember it.

Q: This \$135.00 in cash turned over to Mr. Chambless was placed on this forty acre tract, wasn't it? Where was it placed, please mam?

A: He came in and said he needed some money to pay his taxes, and asked me for some cash.

Q: Well didn't you tell Mr. Hybart that he built a smokehouse and other improvements on this forty?

A: Yes.

Q: Did they come out of the \$135.00?

A: No.

Q: Well, I misunderstood you. You say he got that \$135.00 in cash, was that the only part of the \$496.00 he got?

A: I paid for the lumber.

Q: Where did the lumber go?

A: Into the house.

Q: On the second contract, that forty?

A: It went on the forty.

Q: All improvements with the lumber you furnished were put on the forty?

A: The lumber was. There was some wire put around the other.

Q: How much lumber was put on the forty?

A: I don't remember. I had those attached in my book. I had two checks that I gave the Carney Mill Company and the Escambia Hardware Company in Atmore.

Q: All that was placed on the forty?

A: All the lumber, yes sir.

Q: You put some wire on the sixty?

A: Yes. I paid the Escambia Hardware Company. It isn't the same firm that is there now.

Q: Now isn't it a fact that Mr. Chambless paid to you individually in the postoffice \$50.00 at one time in cash?

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A: No.

Q: Did he ever at any time pay you \$50.00?

A: He gave me \$40.00 one time.

Q: He paid you \$40.00, Mrs. Thompson, in cash?

A: Yes.

Q: Now you owed at that time to the Peoples Fertilizer Company \$132.60 which Mr. Chambless paid, didn't he?

A: If he paid it all. Has he paid it?

Q: I don't know, but you haven't paid it, have you?

A: Well I still owe them \$150.00. I instructed him to pay it, but I don't know whether he paid it or not.

Q: Did you instruct him to pay \$132.60?

A: Whatever the amount is. I think he assumed a \$150.00 payment.

Q: That was to Mr. Stanton, wasn't it?

A: No, that was to Stuart.

Q: Didn't he pay for you \$152.90 to Mr. P. E. Stanton?

A: No.

Q: He did not?

A: No.

Q: Did he pay any amount to Mr. Stanton for you?

A: I never heard of it before.

Q: Do you know Mr. R. B. Bryars?

A: Yes.

Q: He paid \$5.00 to Mr. Bryars for you, didn't he?

A: That was in that payment that he made on the forty.

Q: Did you get some corn from Mr. Chambless?

A: Yes.

Q: How much did that come to, or, as a matter of fact, didn't it come to \$90.00?

A: Lenoir kept that record.

Q: It was about \$90.00, wasn't it?

A: I don't know.

Q: And then on a subsequent time didn't he pay Mr. Red Bryars \$5.00 in cash for you a second time?

A: As a part payment, he loaned Red that money, but that was Chambless' payment to me.

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Q: That's all the same, but he paid it to R. B. Bryars for you at your request? Did you request him to pay to Mr. Red Bryars \$5.00?

A: Well you can take it that way, as a part of that payment.

Q: He did pay then for you an additional \$5.00?

A: Yes.

Q: Did you buy a mowing machine from Mr. Chambless?

A: Yes.

Q: \$65.00, you're crediting him with that?

A: Yes.

Q: Didn't he at one time pay direct to you in the presence of Mr. R. B. Bryars the sum of \$85.00 cash?

A: That \$5.00 was part of it.

Q: As a matter of fact he paid \$80.00 then, cash? He did pay you \$80.00?

A: The complete payment of that Red Bryars was connected with was the \$85.00 that he paid me on that forty to close the deal, to clench the matters, that the forty was a part of that other deal.

Q: Well he did pay you \$85.00 in cash?

A: Yes.

Q: Later on didn't he pay you in the postoffice, give you a check from John Hadley, totaling \$50.00, or near the postoffice, or did he at any time pay to you the amount of \$50.00?

A: He gave me \$40.00, but I don't remember any \$50.00.

Q: How much did he pay Mr. Moorer for you, \$15.00, didn't he?

A: Yes.

Q: Now another time he paid \$6.00 for you, what was that Mrs. Thompson, do you recall? Did he at any time pay the amount of \$6.00 for you?

A: Not that I know of.

Q: Mr. Chambless at one time, Mrs. Thompson, did come down and demand a Deed of the sixty from you, didn't he, or did he not?

A: There was something said about a Deed, but he hadn't finished his payments.

Q: And it was at that time that you entered into this contract for the forty, wasn't it?

A: Ask your question again please.

Q: It was at the time he was there and said something about a Deed to the sixty that the contract was entered into as to the forty?

A: No, not specifically that time, because that bargaining cover

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ed some little bit of time.

Q: Wasn't it a matter of fact Mrs. Thompson that under this original contract to the sixty that when Mr. Chambless had paid the amount of \$800.00 that you would convey him this sixty subject to the Federal Land Bank Mortgage.

A: No, he was to pay that Mortgage.

Q: To the Bank?

A: To the Bank or to me.

Q: Was he to assume that Mortgage to the Bank?

A: His payments were to come through me. He figured that he owed that much and taxes, and he didn't pay his taxes and he didn't pay the Federal Land Bank.

Q: Now Mr. Chambless did, in accordance with your agreement, place a building on this forty and fence it, didn't he Mrs. Thompson?

A: He placed a building where he wanted it and fenced it according to his ideas.

Q: And it was placed on the forty?

A: And the sixty.

Q: I mean the building, it is on the forty, isn't it?

A: I think the building is on the forty, yes.

Q: Now at the time that you came down here to Mr. Moorer's office you knew at that time there were two outstanding contracts on that land, didn't you?

A: Yes, and he knew it too.

Q: One of them was on the sixty acres of land and one on the forty?

A: No.

Q: There were two contracts, were there not, one written and one oral?

A: There was one written, and the oral contract was on 100 acres, and the written contract was on 60 acres.

Q: What was the consideration for the oral contract, Mrs. Thompson?

A: \$2500.00, if he paid cash, and he couldn't get it.

Q: The true consideration for the forty taken alone was \$2000.00, wasn't it?

A: To be added to the other.

Q: Just answer my question.

A: Yes.

Q: At the time you came down here in Mr. Moorer's office it was agreed between you and Mr. Chambless that there was \$2000.00 due

(page twelve)

(page thirteen)

on contract for purchase of land, wasn't it?

A: Yes.

Q: There were no two contracts mentioned at that time, were there?

A: No, because there was never but one. Never but one contract because when the second one was made it just covered the other. There was only one between us still.

Q: Mr. Chambless and his Estate have been in the continuous possession of this sixty since 1922, haven't they?

A: Yes.

Q: And he went into possession of this forty sometime in December, 1927, or the early part of 1928?

A: About that time.

Q: And he has been on the land ever since?

A: Yes.

Q: Farming it and cultivating it, and actually living on it?

A: No, he never actually lived there until his daughter--

Q: What I mean is someone under him, his tenant?

A: Yes.

RE-DIRECT EXAMINATION BY HON. C. L. HYBART.

Q: He had no deed to this property?

A: No.

Q: And who has been paying the taxes on it?

A: I have, in my name.

Q: Well you figure up the amount of taxes that you have paid on it and give it to the Commissioner here, make up a statement year by year and give it to the commissioner, and we'll ask her to mark it Exhibit "C" to your testimony.

A: Beginning in 1922 it will be the sixty acres, but when this other comes in it will be the 100 acres, because really between us there was just one contract standing all the time. One succeeded the other.

Q: In other words, when you added the forty acres then the contract was as to the 100 acres, and he was to pay you what for the 100 acres?

A: \$2500.00 if he paid cash right then, and he couldn't.

Q: These matters that Mr. Hall's inquired about, those items of payment that he has a list of, were those things discussed at the time you were in Mr. Henry D. Moorer's office?

A: Yes.

Q: You all went over all that?

A: Yes.

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(page fourteen)

Q: And he brought his demands against you, and you had your demands against him, and the agreement and understanding was that he owed you \$2000.00 on the 100 acres of land that you had sold him?

A: Yes.

Q: And after you went over these payments that Mr. Chambliss claimed and the things that you claimed you all entered into that contract there?

A: Yes.

Q: And it was reduced to writing?

A: Yes.

Q: By Mr. Moorer?

A: Yes.

Q: And you signed it?

A: Yes.

Q: That covered the mower and the corn and all of the other payments that he claimed?

A: Yes.

Q: Has the Federal Land Bank Mortgage been paid?

A: No, nor the second mortgage that is on the land.

Q: Second Mortgage?

A: Yes, to McMillan-Harrison. He knew about that.

Q: In other words, you owe a first Mortgage to the Federal Land Bank?

A: Yes.

Q: And a Mortgage to McMillan & Harrison?

A: Yes.

Q: What was the amount of the Federal Land Bank Mortgage?

A: Well that was included with the other land. There was two quarter sections that I got \$2000.00 on.

Q: Well he was to pay \$500.00 on the Federal Land Bank loan on this sixty?

A: Yes.

Q: Is the forty acres of land included in the Federal Land Bank Mortgage?

A: Yes.

RE-CROSS EXAMINATION BY HON. HUBERT HALL.

Q: This Federal Land Bank Mortgage, that's against the land now, that's the one that was on there when you entered into the original contract in 1922?

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(page fifteen)

A: Yes.

Q: About when was the Mortgage executed to McMillan-Harrison?

A: It was before then, but I don't remember.

Q: Before then?

A: The Federal Land Bank Mortgage was put on in 1915 or 16.

Q: Was the McMillan-Harrison Mortgage on the land when you entered into the written contract?

A: Yes.

Q: It was understood then that you would take care of the second mortgage?

A: He was to pay me.

Q: He was to take it subject to the Federal Land Bank Mortgage and you would pay the McMillan-Harrison Mortgage?

A: Yes.

RE-RE-DIRECT BY HON. C. L. HYBART.

Q: The McMillan-Harrison Mortgage, how much was that?

A: It was made for \$500.00 and something, and I paid part of it.

Q: How much is due on that now?

A: Around between \$350.00 and \$400.00.

Q: How much is due on the Federal Land Bank Mortgage?

A: Well all in all there is around \$1400.00 or \$1500.00.

Q: He bought it subject to the Mortgages?

A: Yes.

I, Mary F. Green, as Commissioner, hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witness, said witness having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

Given under my hand and seal this 21st day of November, 1935.

Mary F. Green.

STATE OF ALABAMA,
BALDWIN COUNTY.

EXHIBIT "A".

This agreement made and entered into this 5th day of January, 1922, by and between Mrs. J. Thompson and Seale L. Thompson, hereinafter referred to as the parties of the first part and David Chambers, hereinafter referred to as the party of the second part, WITNESSETH:

That for and in consideration of the sum of Thirteen Hundred (\$1300.00) to be paid as hereinafter stated, the said parties of the first part hereby agree to convey to the party of the second part, his heirs or assigns the following described lands, when the said party of the second part has completed in full with the terms of this contract, said lands being described as follows:

The Northwest quarter of Northwest quarter

and the North half of Northeast quarter of Northwest quarter of Section Six, Township One South, Range Five East, Baldwin

County, Alabama.

The parties of the first part hereby agree to convey the above described property free from encumbrance, excepting a mortgage to the Federal Land Bank covering this property and the said party of the second part hereby assumes the payment of Five Hundred Dollars of the said mortgage to the Federal Land Bank. The said conveyance of the above described property to be made on the 1st day of November, 1922, provided the terms of this contract has been complied with, in full.

For and in consideration of the conveyance of the property above described the said party of the second part hereby agrees to pay the sum of Five Hundred Thirty-six and

50/100 (\$536.50) cash, the receipt of which is hereby acknowledged and to pay Five Hundred Dollars of the mortgage due or executed to the Federal Land Bank by the parties of the first part together with the interest accruing on the said sum of Five Hundred Dollars yearly on the due date of the said payments, and to pay the balance of Two Hundred Sixty-three and

50/100

(\$263.50) as evidenced by one promissory note of even date herewith executed to the parties of the first part by the party of the second part bearing interest at the rate of six per cent per annum, said interest and note being payable on the first day of November, 1922.

The said party of the second part is to have and take possession of the said premises immediately and to do and perform all stipulations of this contract as specified herein and upon default in the payment or any provision or stipulation herein contained this contract at the option of the parties of the first part may be declared forfeited by handing a written notice to the party of the second part of said default and if not complied with within three days after service of said notice then said forfeiture shall be considered final and it is hereby declared final by the parties hereto in the event of death of the party of the second part then notice above mentioned may be served upon of his heirs.

In the event of default in any of the provisions of this contract and the parties of the first part declare same forfeited the party of the second part hereby agree to surrender possession of same at once and any payment he may have made hereunder shall be retained by the parties of the first part as rent.

Executed in Duplicate this 5th day of January, 1922.

Witnesses as to Mrs. Thompson and Mr. Chambless:

Henry D. Brown
W. W. Ransom

Witnesses as to Mr. Thompson.

Geo. Kuffrian
A. W. Ransom

Ladie L. Thompson

W. J. Thompson

David. Chambless

"EXHIBIT B"

1st 2nd 1932

It is agreed that I am
due Mrs M. J. Thompson
the sum of Two thousand dollar
balance on contract for purchase
of land.

David Chambers
to Mrs M. J. Thompson

EXHIBIT "C".

Taxes paid by Mrs. M. J. Thompson, referred to in her testimony.

1922:	State and County Taxes on the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East.....	\$8.62
1923:	State and County Taxes on above described lands.....	8.62
1924:	State and County Taxes on above described lands.....	8.62
1925:	State and County Taxes on above described lands.....	8.62
1926:	State and County Taxes on above described lands.....	8.62
1927:	State and County Taxes on above described lands.....	8.62
1928:	State and County Taxes on W $\frac{1}{2}$ of NW $\frac{1}{4}$ and N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 6, Township 1 South of Range 5 East.....	13.12
1929:	State and County Taxes on last above described land.....	13.12
1930:	State and County Taxes on last above described land.....	13.12
1931:	State and County Taxes on last above described land.....	13.12
1932:	State and County Taxes on last above described land.....	13.12
1933:	State and County Taxes on last above described land.....	13.12
1934:	State and County Taxes on last above described land.....	13.12
1935:	State and County Taxes on last above described land.....	13.12

Total amount of taxes paid by Mrs. M. J. Thompson on the above described land.....\$157.88.

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambless,
Deceased,

Complainant,

-vs-

SADIE L. THOMPSON ET AL,
Respondents.

IN THE CIRCUIT COURT--IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

December 5, 1935.

TESTIMONY OF CHARLES LENOIR THOMPSON. DIRECT EXAMINATION BY HON.
C. L. HYBART, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: Your name, please sir?

A: Charles Lenoir Thompson.

Q: Where are you living now, Mr. Thompson?

A: My residence is Perdido. I am at school temporarily in Mont-
gomery.

Q: Are you related to M. J. Thompson and Mrs. Sadie L. Thompson?

A: I am their son.

Q: How old are you?

A: I am thirty years old.

Q: Were you acquainted with Mr. David Chambless during his life-
time?

A: I was.

Q: He is dead?

A: He is, to my knowledge.

Q: About how long since he died?

A: Since I have been in Montgomery. It was back in the summer
early, early summer or late spring, I think.

Q: Of this year?

A: Yes, this year. I went up in January to Montgomery.

Q: Where did he live during his lifetime?

A: Perdido.

Q: Now are you acquainted with the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the N $\frac{1}{2}$ of NE $\frac{1}{4}$
of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, containing
60 acres, more or less?

A: I am.

Q: Did your mother enter into a contract with David Chambless to
sell him this piece of land at any time?

A: She did.

(page two)

Q: Was that on about January 5th, 1922?

A: Along about that time. It was in cold weather, I remember.

Q: Are you acquainted with the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, situated in Baldwin County, containing 40 acres, more or less?

A: I am.

Q: All of this land I am asking you about is situated in Baldwin County?

A: Yes sir.

Q: Do you know of an oral agreement, or an agreement, that your mother had with David Chambless in regard to the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East?

A: I do.

Q: Now what was that agreement?

A: Well this oral agreement was, I hardly know how to state it, this oral agreement came as a supplementary agreement to a written agreement, because David Chambless had failed in the written agreement.

Q: As to the sixty acres of land?

A: Yes, the written agreement covered the sixty acres of land, and he had failed in his payments, and because of the fact that he didn't have any money at that time, and he had made promises and fallen down on them, and then about that time mother was needing some money and told him she would sell him the forty.

Q: You were there?

A: Yes, in my presence. I was there.

Q: That she would sell him the forty, but that he would have to pay for it and finish paying for this sixty, and Mr. Chambless agreed?

A: Yes. The idea was that she would sell him the forty and consolidate it with the other. At that time he owed more than \$700.00 on the sixty, and he told her that he could borrow the money from the Federal Land Bank or the Joint Stock Land Bank and make the payment by borrowing this money. Now on the sixty acres he owed approximately \$700.00, and they agreed that he would take the forty, take possession, and they would consider that he owed her \$2500.00; that she would overlook the fact that he was behind on the other and that that would bring him up to the present day basis.

Q: In other words he was to pay \$2500.00?

A: For both pieces of land, yes.

Q: That's the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 6, Township 1 South of Range 5 East, and the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East?

A: That's right.

Q: Containing in the aggregate 100 acres of land?

A: 100 acres of land.

(page two)

(page three)

Q: Did you say that you were present at this conversation between your mother and Mr. Chambless when they entered into this agreement?

A: Yes sir, I was.

Q: And did Chambless agree to pay the \$2500.00?

A: Yes. He agreed to pay the \$2500.00.

Q: And did she agree to accept it?

A: Yes, for the 100 acres of land.

Q: That was along, you say, in 1927?

A: That was in '27, I think.

Q: Now did you go with your mother down to Mr. Henry D. Moorer's office at a time when Mr. David Chambless was there?

A: I did.

Q: Did your mother and Mr. David Chambless enter into an agreement relative to the balance due on this 100 acres of land in Mr. Moorer's Office on February 2nd, 1932?

A: They did.

Q: Witness is shown Exhibit "B" to Mrs. M. J. Thompson's testimony and-- Do you identify that as being the agreement that they signed?

A: I do.

Q: And identifies it as being the agreement that Mr. David Chambless and his mother, Mrs. M. J. Thompson, signed in Mr. Henry D. Moorer's office on February 2nd, 1932. Now what was the agreement there between Mrs. M. J. Thompson and Mr. David Chambless in Mr. Henry D. Moorer's office, just give us the details there?

A: They appeared there for a settlement of the accounts in order to reach this decision, because Mr. Chambless had been notified that he was in arrears and that it was necessary that he do something about it. Mother's testimony there, her evidence there, claim, showed that Mr. Chambless owed to her something over \$2300.00.

Q: On this purchase price?

A: On the purchase price of the 100 acres. Mr. Chambless claimed that he did not owe that much, and in evidence charged \$1.50 a bushel for corn that he had agreed to accept \$1.25 for when corn was a dollar a bushel, and he charged \$65.00 for one old mowing machine that he had agreed to accept \$25.00 for in addition to his other claims, and in order to arrive at an amount that there would be no argument Mr. Moorer finally persuaded mother to accept a statement of a \$2000.00 indebtedness, which she did, and Mr. Chambless signed the paper admitting that he owed the \$2000.00 on the 100 acres of land, and she finally agreed to accept that if he would pay it, as I remember it, right away, during that session, which he said that he would be able to do.

Q: Chambless agreed that he owed her \$2000.00 on this 100 acres of land?

A: Yes, according to his second agreement.

Q: And your mother agreed to accept the \$2000.00?

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(page four)

A: She agreed to accept it if it was paid during that season; that is, that crop season.

Q: And that was in 1932?

A: 1932.

Q: Now your mother, as I understand it, in that settlement, had a claim of some \$2300.00 or \$2400.00, between \$2300.00 and \$2400.00?

A: Between \$2300.00 and \$2400.00.

Q: And Mr. Chambless was claiming it wasn't that much?

A: That's right.

Q: And Mr. Chambless let your mother have some corn?

A: He let her have some corn right after I was hurt, in 1930 or 1931.

Q: In this statement that he had against your mother there he was charging her \$1.50 a bushel for the corn she had agreed to pay \$1.25 for?

A: I made that agreement for mother.

Q: And then your mother had bought a mowing machine?

A: An old mowing machine.

Q: And in the statement that he had he was charging her \$65.00 for it?

A: \$65.00 for the old mowing machine.

Q: And there was a contention as to that?

A: Yes.

Q: And there was a contention between your mother and Mr. Chambless as to the charges on the corn?

A: Yes.

Q: And that was the difference there in the accounts by reason of those charges?

A: That's right.

Q: And then they settled, came to an agreement of the whole matter, the balance due?

A: That's right, that was the compromise there.

Q: \$2000.00 on the 100 acres of land?

A: That's right.

Q: The two transactions had been consolidated?

A: They were consolidated when the oral agreement was made.

CROSS-EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANT.

Q: Mr. Thompson, you're a son of M. J. Thompson and Mrs. Sadie L. Thompson?

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(page five)

A: I am.

Q: You're materially interested in the outcome of this suit?

A: I won't get anything out of it.

Q: Are you materially interested?

A: Well, naturally, as having been there as a witness when the transactions took place, but there is no benefit to me.

Q: Where was this first contract entered into between Mr. Chambless and Mrs. Thompson?

A: The written contract? Here in Bay Minette.

Q: Were you there?

A: I was there.

Q: Now, the second contract, the oral contract, where was it entered into?

A: In Perdido, up there.

Q: Whereabouts?

A: Well, it was pretty nearly all over the country. They started it at home and went up and looked over the land.

Q: And they met and discussed it several times?

A: Well he came out and wanted to do something, and mother wouldn't discuss the sale of any more land, but then mother was needing some money, and she finally agreed to do it.

Q: Where was that consummated?

A: That began at home and they went and looked over the land.

Q: And it was on the land there, on the land?

A: Yes.

Q: Was anyone present other than you, Mrs. Thompson and Mr. Chambless?

A: No, no one else was present.

Q: You were present at a conversation between Mrs. Thompson and Mr. Chambless in Perdido?

A: I was.

Q: Your mother ran a store?

A: Yes.

Q: That was in regard to this land also?

A: That was at the time when she was running a store. They were trying to trade, and I remember the trade was finished on the place. He talked to her at the store, because it was about that time she let him have some money to pay the taxes on his homeplace, because she didn't want to let her things get behind, and she was afraid the Federal Land Bank wouldn't let him have a loan if he

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(page six)

hadn't paid the taxes on his home place.

Q: At that time your mother advised him that there was a second Mortgage to McMillan & Harrison?

A: Yes.

Q: There was a Mortgage covering the entire 100 acres, this McMillan & Harrison Mortgage covered the entire property and other?

A: Yes.

Q: Have you and your mother and Mr. M. J. Thompson discussed this second contract since that time?

A: Only when we were down here with Mr. Moorer.

Q: Was Mr. Thompson present?

A: No.

Q: Your father has never discussed it?

A: I have heard them talk about it.

Q: I mean with Mr. Chambless present?

A: No.

Q: Your mother has considered this second oral contract in force and effect all the time?

A: Yes.

Q: And has dealt with Mr. Chambless accordingly?

A: That's right.

Q: And she considered that contract with the same force and effect as though it had been in writing?

A: Yes.

Q: You don't know anything about the special payments made to Mrs. Thompson, do you, for the right of way Deed up there?

A: No, I don't know anything about that.

Q: And do you know whether or not Mr. Chambless paid ~~Mr. Moorer~~ ~~some~~ fees on behalf of Mrs. Thompson?

A: Now let me see, he was supposed to pay some taxes to Mr. Moorer.

Q: I mean Attorney's fees?

A: I don't know that.

Q: Do you know whether or not Mr. Chambless was supposed to and did pay to P. E. Stanton for fertilizer something like \$152.90 for your mother?

A: He was supposed to.

Q: Do you know whether he did or not?

A: No.

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Q: You know that Mr. Stanton has never proceeded against your mother?

A: Since the contract has been in effect I know that she borrowed some money from the Bank of Atmore to pay Mr. Stanton one time. I do know that, because the Note was not paid.

Q: Was that discussed in Mr. Moorer's office, those several payments like that?

A: No. Wait a minute, he discussed in Mr. Moorer's office, I remember, a payment for fertilizer. At the time the second agreement was made I know he made the statement that he had paid so much for fertilizer.

Q: Was that to the Peoples Fertilizer Company or to Stanton?

A: Of my own knowledge I know he paid the Peoples Fertilizer Company something.

Q: Do you know whether or not Mr. Chambless paid to Mrs. Thompson anything in cash?

A: At which time?

Q: Any time, on this first contract?

A: Let me see--

Q: To refresh you, didn't he pay her something like \$50.00 at one time?

A: At what time?

Q: In the Postoffice at Perdido?

A: I don't remember. I remember that he paid at various times in the fall, because that was the time that she came down here once to see Mr. Stone. That was before she made the second contract. She came to tell him she wanted him to foreclose on Mr. Chambless because he was paying not enough to cover the interest.

Q: Now on this first contract the total was \$1500.00?

A: I think that's correct.

Q: And under the contract Mr. Chambless was given credit for \$556.50?

A: Something like that, on a Note.

Q: And in addition to that \$263.50 was paid?

A: Not at that time.

Q: When was that paid, do you know?

A: That was paid, as I remember, in payments along, because the argument came up that he was not making the, that was the second time the interest came due, that he was not paying enough to pay the interest, and he wanted to take it off the principal and not the interest.

Q: But there was paid on the original contract after execution something like \$263.50?

A: Something like that, I don't know the exact amount.

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(page eight)

Q: At the time of the execution of the contract there was \$500.00 balance due to the Federal Land Bank which he was to assume, making a total of approximately \$1300.00 he was to pay for the land?

A: That's right.

Q: It was quite a bit, some five years, after this first contract was entered into, before this second contract came up?

A: That's right.

Q: What was the purchase price to be for this forty acres?

A: \$2000.00.

Q: That's \$50.00 an acre?

A: That's right.

Q: And down in Mr. Moorer's office some time after the entering into of this oral contract they met and agreed that \$2000.00 was due on the whole thing?

A: \$2000.00 due.

Q: Did they include all interest and everything, was it the intention of the parties that the \$2000.00 was to include the interest and the balance of the principal due?

A: That's the amount that she named him if he would settle at that time.

Q: But the \$2000.00 finally arrived at covered the principal and interest still due?

A: Yes, but it didn't cover the taxes.

Q: The \$2000.00 was to cover the principal and interest due on the contract?

A: Yes, on all the land.

RE-DIRECT EXAMINATION BY HON. C. L. HYBART, ONE OF SOLICITORS FOR RESPONDENTS.

Q: You say the \$2000.00 was the balance due, agreed upon, on all the land?

A: Yes, compromise settlement on all the land.

Q: The 100 acres of land?

A: That's right.

Q: And now at that time had the State taken some gravel off the land?

A: They did.

Q: That was all in the settlement?

A: Now that was one of the major differences between the \$2500.00 and the \$2000.00. This gravel money that was paid to mother, she paid the money to finish the house and the barn and the smoke-house so that he could make application to the Federal Land Bank for a loan, and he insisted on not giving credit for the \$500.00 spent on the buildings.

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(page nine)

Q: And that was the difference?

A: And the difference between the corn and the mowing machine.

Q: And they thrashed it all out and came to the conclusion and the understanding that he owed her \$2000.00 on this 100 acres of land?

A: That's right. They had agreed at first that he would pay 6%, and the \$2000.00 at 6% would take care of the Federal Land Bank for the home place.

Q: Now back there in the original contract you said something about an assumption of \$500.00 to the Federal Land Bank as a part of the consideration of the original transaction in regard to the sixty acres of land, and I believe you said that he never assumed this \$500.00?

A: They refused to permit him to assume it.

RE-CROSS EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANT.

Q: You were acting with and for your mother throughout the entire transaction?

A: No, only when I arranged for the price of the corn.

Q: You were just acting right along with your mother throughout the entire transaction, and were present with her when the various agreements were entered into?

A: No, the first transaction I was with her because, I forget why, I came down here in '22, I just remember that I came, and in the second transaction I drove the car because she wasn't able to drive.

Q: But you were not acting for her?

A: No, I had no authority to act for her other than for the purchase of the corn.

RE-RE-DIRECT EXAMINATION BY HON. C. L. HYBART, ONE OF SOLICITORS FOR RESPONDENTS.

Q: She was looking after her own business?

A: Yes.

Q: And the connection you had with the transaction you were just a witness there, just present.

A: Just present.

I, Mary F. Green, as Commissioner, hereby certify that the foregoing deposition of Charles Lenoir Thompson on oral examination was taken down in writing by me in the words of the witness, said witness having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

Given under my hand and seal this 5th day of December, 1935.

Mary F. Green

Charles
W
Thompson

Testimony

Filed in 7 Feb 36
O. Bates & Co.

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambliss, deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NUMBER 9639.

This cause coming on to be heard on the Report of the Register, made and filed in this cause on the 27th day of January, 1937, pursuant to a decree of reference, made by this Court, and upon the Exceptions to said Report, taken by the Respondents in said cause and duly filed within the time required by the orders of this Court, and the Court having duly considered and understood said Report and Exceptions thereto, the Court is of the opinion that said Exceptions are not well taken and that said Report should be confirmed.

WHEREUPON, it is ordered by the Court that said Exceptions, as filed by the Respondents, be and the same are hereby severally overruled, and that the said Report of the Register be and is hereby confirmed.

Dated this 29th day of November, 1938.

J. W. Hare
Judge.

RECORDED

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2-408

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DECREE CONFIRMING REGISTRAR'S
REPORT:

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambliss, deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NUMBER 9839.

Filed November 29, 1935

R. S. DUCK

clerk, & register

By *William Thompson*
Deputy

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

WILFELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambless,
Deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

BRIEF AND ARGUMENT OF COMPLAINANT
AND IN RESPONSE TO RESPONDENTS
BRIEF AND ARGUMENT

BY

BEENE & HALL,
Solicitors for Complainant,
Bay Minette, Alabama.

The Respondents claim that the Complainant is indebted to them in the sum of Two Hundred Sixty-three and 60/100 (\$263.60)

to the Respondent.

If the Court will carefully consider the testimony of the several witnesses, it will readily be seen that the Respondents are in error in stating the amount due by the Complainant

original or written contract.

Respondent relative to the sixty acres of land described in the

Complainant and the Respondent, Mrs. Sadie L. Thompson.

The Respondents in their brief and argument have very generously consented to agree with the liberal construction placed on the contracts by the Complainant, that is, that according to all the evidence before the Court, the Complainant is not entitled to relief against the Respondent as to the forty acres of land described in the oral contract, which was entered into by the Complainant and the Respondent, Mrs. Sadie L. Thompson.

Respondent.

SADIE L. THOMPSON, ET AL.,

Complainant,

WILLIAM S. CHAMBERS,
Administrator of the Estate of David Chambers,
Deceased,

IN EQUITY,

BALDWIN COUNTY, ALABAMA,

IN THE CIRCUIT COURT OF

NO. 9839.

Dollars from date of January 6th, 1922 to a certain date fixed in the argument. Is he borne out by the statements of his own witnesses as to this?

If we are to take the testimony of Mrs. Thompson, then we must necessarily say that her son, Lenoir Thompson, was her agent, and, in fact, knew better than she the various details of the transaction. On page 10 of her testimony taken before Miss Mary Green, we find the following:

"Q: How much did that come to, or, as a matter of fact, didn't it come to \$90.00?

A: Lenoir kept that record."

It would seem from this that Lenoir Thompson kept the records relative to these various transactions. With that in mind, let us consider the testimony of Lenoir Thompson; page 7 of his testimony:

"Q: Now on this first contract the total was \$1302.00?

A: I think that's correct."

Q: And under the contract Mr. Chambless was given credit for \$336.50?

A: Something like that, on a Note.

Q: And in addition to that \$263.50 was paid?

A: Not at that time.

Q: When was that paid, do you know?

A: That was paid, as I remember, in payments along, because the argument came up that he was not making the, that was the second time the interest came due, that he was not paying enough to pay the interest, and he wanted to take it off the principal and not the interest.

Q: But there was paid on the original contract after execution something like \$263.50?

A: Something like that, I don't know the exact amount.

Q: At the time of the execution of the contract there was \$500.00 balance due to the Federal Land Bank which he was to assume, making a total of approximately \$1300.00 he was to pay for the land?

A: That's right.

Q: It was quite a bit, some five years, after this first contract was entered into, before this second contract came up?

A: That's right.

Then, if we are to take the testimony of Mrs. Thompson and her son, Lenoir Thompson, there was paid in cash, as set out by the above quoted testimony, the sum of eight hundred (\$800.00) Dollars, which, in accordance with the testimony of both of them, was a full and complete compliance of the terms of the original contract - that is, with Mr. Chambless assuming the Five Hundred (\$500.00) Dollars due to the Federal Land Bank. Then bearing that in mind, what were the respective duties of the parties to the original contract? Mr. Chambless demanded his deed, Mrs. Thompson stated that she could not execute the deed because there had been given a second mortgage to Mr. Millard S. Harrison. Now, in addition to that, what payments have been made to Mrs. Thompson? It is undisputed by both Mrs. Thompson and her son, Mr. Lenoir Thompson, that she received from the State of Alabama in addition to an amount allowed Mr. Chambless for corn.

was in addition to an amount allowed Mr. Chambliss for corn.
(\$15.00) Dollars for her. And it must be borne in mind that this
admits that Mr. Chambliss paid her Attorney, Mr. Hoover, fifteen
payment of Eighty-five (\$85.00) Dollars. Again on page 11, she
Dollars for a mowing machine. On page 12 again, she admits a
again on page 11, she admits a payment of Sixty-five (\$65.00)
of one hundred thirty-two and 60/100 (\$132.60) Dollars. Then
with a payment by Mr. Chambliss to the Peoples Fertilizer Company
(\$40.00) Dollars. Then again on page 10, she, in effect, ad-

Then again on page 10, Mr. Chambliss paid her forty
time?
should Mr. Chambliss have made any payments on the forty at this
attempts to say that this amount was paid on the forty. Why
Seventy-five or Eighty-five (\$75.00 or \$85.00) Dollars, but she
According to her testimony on page 4, he paid her some
Was the Complaint made any other payments to the Re-
action of a credit of three hundred Sixty-one (\$361.00) Dollars.
land, then, in that event, he would be entitled on that trans-
with the money which was spent in improving the forty acres of
if the Court should go so far as to charge the Complaint
buildings which are now located on the forty-acre tract. Then
thirty-five (\$135.00) Dollars, which was used to buy lumber for
a part of this was given to Mr. Chambliss - that is, one hundred
red Ninety-six (\$496.00) Dollars. It is true that she says that
some for gravel coming off the sixty acres the sum of four hundred

Then, if we are to accept the figures admitted to by Mrs. Thompson and her son, Mr. Chambless paid on the Five Hundred (\$500.00) Dollars balance due after paying the Eight Hundred (\$800.00) Dollars, the sum of six hundred ninety-eight and 60/100 (\$698.60) Dollars. Mrs. Thompson in her testimony (Page 11) admits that Mr. Chambless came down and demanded a deed to the sixty acres from her. Then why not, as a matter of justice, good conscience, and equity is not the Complainant entitled to a conveyance of the sixty acre tract of land? The written statement entered into between Mr. Chambless and Mrs. Thompson, on February 2nd, 1932, was an agreement between them that Mr. Chambless was indebted to her in the sum of Two Thousand (\$2,000.00) Dollars on contract for purchase of land.

We again submit, therefore, that the Complainant is ^{for} entitled to the relief prayed/as against the land described in the original contract, and described as the Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South, Range 5 East, and that a decree should be rendered directing the Respondents to convey to the Complainant, free from all liens and encumbrances, the said sixty acres of land, and that a decree should necessarily be entered that the Complainant has no right to the relief prayed for as against the forty acres described in the subsequent or oral contract.

Respectfully submitted,

Reuben D. Lee
Solicitors for Complainant.

We hereby certify that a copy of this brief has been
mailed to Hon. C. L. Hybart, Solicitor of record for the Re-
spondents, Monroeville, Alabama.

Dated this 8th day of May, 1938.

BREWER & KILL

BY: *H. L. Brewer*

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambliss,
Deceased,

Complainant,

-vs-

SADIE L. THOMPSON ET AL,
Respondents.

IN THE CIRCUIT COURT--IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

It is agreed by and between the parties, through their Solicitors of Record, that Mary F. Green is to act as Commissioner in taking the testimony of W. J. McMillan, R. B. Bryars and Winfield S. Chambliss, witnesses for Complainant, and is to take the said testimony down in shorthand and is to transcribe the same, and to furnish a copy of the testimony so taken which is to be taxed as a part of the costs to Beebe & Hall, Solicitors for Complainant, and Hybart & Chason, Solicitors for Respondents; that the signing of the testimony by the witness and the issuance of a commission to Mary F. Green is hereby waived.

Dated this 19th day of December, 1935.

Beebe & Hall
Solicitors for Complainant.

Hybart & Chason
Solicitors for Respondents.

TESTIMONY OF W. J. McMILLAN, WITNESS FOR COMPLAINANT. DIRECT
EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANT.

Mr. Mcmillan, did you know Mr. David Chambless during his lifetime?

A: Yes sir.

Q: Do you know Mrs. M. J. Thompson, Mrs. Sadie L. Thompson?

A: Yes sir.

Q: Mr. David Chambless is dead, isn't he?

A: Yes sir.

Q: And Mr. Winfield S. Chambless, his son, is Administrator of his Estate?

A: Yes sir.

Q: Mr. Mcmillan, do you know the land in Baldwin County, Alabama, described as the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East?

A: Yes sir.

Q: Where is that land?

A: It is right on the highway where I am living.

Q: Near Perdido?

A: Yes sir.

Q: Do you know anything of a contract between Mr. and Mrs. Thompson and Mr. David Chambless with reference to that land?

A: Well I know they had a written contract with the sixty acres, and the forty was a verbal contract.

Q: Were you ever present when Mr. Chambless and Mrs. Thompson discussed that sixty acres?

A: No.

Q: The sale of it?

A: Only when he bought the forty.

Q: Now at the time the forty was bought, now that forty is described as the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, in Baldwin County?

A: Yes sir.

Q: It is adjoining the sixty?

A: It is the forty that I'm living on.

Q: Now you say you were present at a conversation between Mrs. Thompson and Mr. Chambless?

A: Yes sir.

Q: Where did that conversation take place?

A: In her store.

Q: Where?

(page two)

A: At Perdido.

Q: Who was there?

A: Mr. Chambless, Mrs. Thompson and myself.

Q: Anyone else?

A: Well, there was a negro walking about in there.

Q: Who was he?

A: George Bailey.

Q: Were you present and heard the conversation between Mr. Chambless and Mrs. Thompson?

A: I did.

Q: Now what was the conversation with reference to the sixty at that time?

A: Well, there wasn't anything mentioned about the sixty only Mr. Chambless asked her for a Deed. He was owing her at that time. He had paid it down to \$500.00. He was to take this \$500.00 up with a long loan. When he asked her she said, "I can't do it because a second Mortgage is on the land, and I can't give a Deed". She wanted to sell him another forty. He came outside and we--

Mr. Hybart: We object to him testifying as to what happened outside.

A: He took me off to one side and asked me would I take twenty acres. I said yes if we could get a loan on it. He went back in the store and told her we would take it, and she told him that there would be enough of the gravel to just about pay for the forty, and so he decided, just us, there wasn't no writing, just three of us in there, that he would take the forty and we got a surveyor and surveyed it out.

Q: At that time was anything said about the sixty ?

A: Only Mr. Chambless said he didn't want to encumber this sixty with the forty.

Q: Was there anything said about the two contracts being separate and distinct?

A: They were separate, one verbal and one written.

Q: At that time was there anything mentioned about the balance due of \$700.00 on the sixty?

A: There was only \$500.00 due. He had paid all except the \$500.00 he was to take up with the long loan.

Q: Was it stated in the conversation that he would assume this \$500.00?

A: He wanted to put it in a long loan so he could get a Deed to it.

Q: Now Mr. Chambless, after buying that sixty, went into possession of it, didn't he?

A: Yes sir.

(page two)

(page three)

Q: And remained, and is in possession now through his heirs?

A: Yes sir.

Q: And on this forty, did he go into possession of that?

A: He built a house on it and put me on it. He bought it in the fall and in February I moved on the place. We built a house. I helped him haul the lumber and helped him do the work, and I moved to the place.

Q: And you have lived up there practically all the time?

A: Well, there was two years I didn't live there, while Mr. Bryars was on it. I lived there two years and moved and lived away two years and moved back on the place and have been there since.

Q: Do you know anything about any gravel being moved off the property?

A: I do.

Q: Was that before or after the agreement at the store?

A: Well they hadn't gotten any check, when that last forty was bought, but they were looking for a check and Mr. Chambless told her, says, "Mrs. Thompson, it is in your name, but I want to improve with it", and she said that is what she wanted him to do, improve that forty, and that there should be about \$400.00, and he said I can spare you as much as \$100.00. She said if you can it will be all right, and if you can't it will be all right, but she would be glad to get it if she could.

Q: And you say that the check for the gravel came in after the oral contract?

A: Yes sir, after the trade was made.

Q: Do you know anything about Mr. Chambless paying Mrs. Thompson at or near the postoffice, some money?

A: In the Postoffice he gave her a \$50.00 check. Mr. John Hadley gave him the check and I know the day it was, but I don't know the year, but it was on Christmas Eve that this check was given her. We went from a burying to Perdido. I went with him. We went on to his house and we had dinner with him, and before I left Perdido John Hadley gave him a \$50.00 check, and he went to a little table there in the corner of the postoffice and endorsed it and gave it to her.

Q: Was that before the agreement as to the forty acres?

A: After that, because I was living on the forty at that time.

Q: Do you know anything about a payment to the Peoples Fertilizer Company?

A: Yes sir, that was Mr. Stuart here at Bay Minette.

Q: What do you know about that?

A: I know he told me he paid it and gave a Note on 29 acres of land he has there at Perdido, and if the note hasn't been taken up since he died there is some on it yet.

Q: Do you know anything about any payments to Mr. P. E. Stanton?

(page three)

(page four)

A: No, I don't. I heard him talking about it, but I never did know anything about that.

Q: Now do you know whether or not Mr. Chambless sold Mrs. Thompson any corn?

A: Well, he told me he did.

Q: You don't know of your own personal knowledge?

A: No, but I heard her and him over at Mr. Moorers office talking about it, and they both said she had bought some corn from him, but as to how much I couldn't say. That's all I know, just what I heard them talking, those two.

Q: Mrs. Thompson and Mr. Chambless?

A: Yes, and Mr. Moorers and Lenoir, he was there.

Q: Now were you there at the time some form of agreement was entered into as to the amount Mrs. Chambless owed Mrs. Thompson?

A: No sir, I was not.

Q: You were not?

A: No, I was here one time, but that agreement wasn't made at that time, and later on him and his son William came down here and met Mrs. Thompson and made this agreement, later on, after we were over there.

Q: But you do know that Mr. Chambless told her down at the store that he didn't want this oral contract to interfere with the sixty, and that those two contracts were separate?

A: Unless we put it in the long loan to get a deed to it, and furthermore she told him-- He says, "Mrs. Thompson, if I can't get enough loaned on this land to cover the whole thing, will you take a second Mortgage?" And she said, "Mr. Chambless, that's a matter between you and I".

CROSS EXAMINATION BY HON. C. L. HYBART, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: Now, Mr. Witness, you say that he paid the Peoples Fertilizer Company some money?

A: Yes sir, Stuart, he was the man he paid.

Q: Do you know that of your own knowledge?

A: Well, I wasn't there.

Q: Are you swearing to what you know or what somebody told you?

A: Well, Mr. Stuart has a Note on it.

Q: Well, I'm asking you, do you know this of your own knowledge?

A: No.

Q: Did you see him pay him any money?

A: No sir, I didnot.

Q: Then of your own knowledge you don't know whether he paid any money or not?

(page four)

(page five)

A: No sir, he told me he did, and I know he gave a Mortgage on the other place.

Q: Are you testifying as to what you heard people say?

A: Well, I said while ago that I didn't know for sure Mr. Chambless did, but he told me he did, and I knew he gave a Note for some fertilizer for Mrs. Thompson.

Q: How do you know he gave a Mortgage?

A: I heard Mr. Stuart and him talking.

Q: But you didn't see him sign the Note?

A: No, I did not.

Q: Well, you say that he gave Mrs. Thompson a check of John Hadley's, where was that?

A: In the Postoffice.

Q: At Perdido?

A: Yes sir.

Q: You say that was Christmas Eve Day?

A: Yes sir.

Q: But you don't remember the year?

A: Well, no, it was right about '29 as near as I know now. I don't remember. I could have gotten up the exact date.

Q: Did you see John Hadley write that check?

A: I did.

Q: How far were you standing from him when he wrote it?

A: I was as close to him as I am to you.

Q: Where was John Hadley?

A: At Perdido.

Q: What part?

A: John Havard's store.

Q: What part of the store?

A: On the porch. He sat down on the porch and wrote the check and gave it to Mr. Chambless.

Q: Where did you go from there?

A: I walked with him to the Postoffice.

Q: Was that the same building?

A: No sir.

Q: How far was the Postoffice from there?

A: Some twenty or thirty steps.

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(page six)

Q: And you went in the Postoffice?

A: I went to the door.

Q: Did Mr. Chambless walk into the Postoffice?

A: He walked into the Postoffice. It wasn't any farther than from here to Mr. Hall, and ~~he endorsed it and~~ gave it to Mrs. Thompson.

Q: From where you were could you see him write his name on it?

A: I seen him writing on it, and it must have been.

Q: But you don't know of your own knowledge whether he wrote his name on the check or not, do you?

A: No sir, but we could get the check.

Q: And you say that he delivered that to Mrs. Thompson?

A: Yes sir.

Q: Did you hear the conversation between them?

A: She told him that she would give him a receipt later, but she didn't right then.

Q: Didn't give him any receipt then?

A: No sir.

Q: Do you know whether she did give him a receipt?

A: I don't think she did.

Q: Well you didn't keep up with Mr. Chambless, did you? You don't know, do you?

A: No sir.

Q: You didn't go to the Postoffice everytime he did, did you?

A: No sir, and I didn't see him talking with Mrs. Thompson everytime, either.

Q: Do you know whether that check was cashed or paid or not?

A: No, I don't, but John Hadley said he had the stuff.

Q: But you don't know whether it was cashed or not?

A: No sir, I didn't see it cashed.

Q: When you went up there with Mr. Chambless to see Mrs. Thompson relative to this forty acres of land, you were sort of interested in the transaction, weren't you?

A: We were going to buy it together.

Q: That was the understanding between you and Mr. Chambless, that you all would buy it together?

A: Well, he bought it and I was to take twenty acres of it.

Q: You were to have half of the forty?

A: That's right.

Q: And that was the understanding between you and Mr. Chambless?

(page six)

(page seven)

A: Yes sir.

Q: And you built a home and are living on it?

A: Yes sir.

Q: And if you could get hold of the land you would be expecting a deed to it, wouldn't you?

A: I would.

Q: And so, in a way, you are interested in the transaction?

A: In a way I am.

Q: Now when they brought the question up there, didn't Mrs. Thompson contend that Mr. Chambless owed her \$700.00 on this?

A: No sir, she did not.

Q: And didn't she agree to reduce the indebtedness so as to make both of the places bring or stand for \$2500.00, so that Mr. Chambless could take the two places and he could borrow \$2500.00 on the two places, that she would accept that for the indebtedness on the sixty acres as well as the forty acres?

A: He told her he didn't want to encumber this sixty with the forty unless he could put a long loan on it.

Q: And wasn't that the understanding, that he was to borrow \$2500.00 on the 100 acres of land?

A: No, he was to borrow what he could, and if he couldn't borrow enough he was to give her a second Mortgage.

Q: Now, you don't know what the understanding was between them down at Mr. Moorers's office?

A: No sir, I do not.

Q: At that particular time, if they had an understanding in Mr. Moorers's office, at that particular time the gravel had been paid for and accounted for, had it not?

A: No sir, only \$496.00, and later on he went to Montgomery and found there was a right smart more--

Q: Were you up there with him?

A: No sir, but I saw the figures he brought back.

Q: Where are the figures?

A: I haven't got them. He had the figures.

Q: Do you know whether, after this conversation down there at the Postoffice between Mrs. Thompson and Mr. Chambless, that they afterwards went up on this land?

A: Went up on it?

Q: Yes, went out there on the land, Mr. Chambless and Mrs. Thompson, do you know whether they did or not?

A: No, all I know about it--

Q: Do you know whether they went up on the land and had a con-

(page seven)

(page eight)

versation there, and what the conversation was?

A: No, I do not.

TESTIMONY OF R. B. BRYARS, WITNESS FOR COMPLAINANT. DIRECT
EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANT.

Q: Mr. Bryars, do you live at Perdido?

A: Yes sir.

Q: Did you know Mr. David Chambless during his lifetime?

A: Yes sir.

Q: Do you know Mrs. Thompson?

A: Yes sir.

Q: She lives at Perdido?

A: Yes sir.

Q: Mr. Bryars, do you know this land in dispute at Perdido between the Chambless heirs and Mrs. Thompson?

A: That's the land that is over there on the highway.

Q: The sixty acre tract and the forty acre tract, you're acquainted with the land without my describing it?

A: Yes.

Q: Were you ever present at a conversation between Mrs. Thompson and Mr. Chambless with reference to that land?

A: One time I was.

Q: What was that conversation, as nearly as you remember it?

A: That was the time that I moved on it, in 1930.

Q: Where did that conversation take place?

A: Down at Mrs. Thompson's house.

Q: Who was there, Mr. Bryars?

A: Just Mrs. Thompson and Mr. Chambless and myself.

Q: What was that conversation, Mr. Bryars, as nearly as you remember?

A: Well, I bargained to buy the forty acres; that is, if I could get up the money. I paid part of it and never did finish out the first payment.

Q: How much did you pay?

A: I paid \$35.00 one time and \$25.00 another, and \$10.00 or \$15.00 in the fall.

Q: To whom did you pay that?

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(page nine)

A: I paid the \$35.00 and the \$25.00 to Mrs. Thompson.

Q: And was there any understanding as to how that should be applied as a credit?

A: Well, the way I understood it, if I bought the place that would be part of the first payment.

Q: Was Mr. Chambless to be given credit for that on the purchase price of the forty?

A: I don't know, I suppose so. I would have been if I had bought it.

Q: Now at that time did anything come up with reference to the contract on this land, or contracts?

A: Well, I was to pay, I believe it was \$150.00 on the forty acres.

Q: What was to be the purchase price?

A: \$2000.00.

Q: Was anything said about any balance due on the forty?

A: Well, after I paid the \$150.00 there would have been \$1850.00.

Q: \$1850.00 was the balance due?

A: That would have been if I had paid the whole \$150.00.

Q: Now was that the balance due from you to one of them, or from Mr. Chambless to Mrs. Thompson?

A: That would have been what I owed on the 40 acres.

Q: Was anything said between Mrs. Thompson and Mr. Chambless as to the balance due on the forty between Mr. Chambless and Mrs. Thompson?

A: No.

Q: Was anything said about the sixty acres of land at that time?

A: No, that wasn't in the trade at all.

Q: You were just trading as to the forty acres?

A: Yes sir.

Q: That was separate and distinct from any other?

A: Yes.

CROSS EXAMINATION BY HON. C. L. HYBART, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: Mr. Bryars what year was this in?

A: It was in January, 1930, I believe.

Q: You were desirous of buying this forty acres of land?

A: Yes sir.

Q: Over there, from Mr. Chambless?

A: Yes sir.

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(page ten)

Q: And you all went down-- Mr. Chambless was due Mrs. Thompson something on the land there?

A: Yes sir, I suppose so.

Q: And you went down and talked it over with Mrs. Thompson?

A: Yes sir, we had to make it all right with her.

Q: And you all had come to an understanding, you and Mr. Chambless, that you would take the place if you could make the necessary arrangements, and that you would pay \$2000.00 for it.

A: Yes sir.

Q: At that time there had been some gravel sold off the place, had there not?

A: Not off the 40 acres. Don't think that was on the forty.

Q: Well, did you move over on the place?

A: Yes sir.

Q: Work the place?

A: Yes sir.

Q: You cultivated it?

A: Yes sir.

Q: How much open land is on the forty acres? How much land did you cultivate?

A: About twelve or fourteen acres.

Q: You cultivated about twelve or fourteen acres there?

A: Yes.

Q: How long did you stay there?

A: A year.

Q: And during that year you say that you paid to Mrs. Thompson \$60.00?

A: Well, yes sir, and then in the fall I paid her \$15.00 more. I did some work for Mrs. Thompson for some of it, and then Mr. Dave, I think he paid the balance for me.

Q: Paid the balance, what do you call the balance?

A: That was \$10.00. I charged \$5.00 for the work, I believe.

Q: The balance of the \$15.00 you're talking about; in other words, you say that you paid her \$35.00 at one time?

A: Yes, that was the day I moved there. That was in money.

Q: In money. And then you paid her \$25.00 at another time.

A: Yes sir.

Q: Was that in money?

A: I gave her a check for that.

(page ten)

(page eleven)

Q: On what Bank?

A: First National Bank of Atmore.

Q: And that check was paid?

A: Yes sir.

Q: And you got the returned voucher?

A: Yes sir. I think I have it at home now. Pretty sure I have.

Q: And that made \$60.00 you had paid, and then you say you did \$5.00 worth of work for her? That right?

A: Yes sir, I'm pretty sure that's right.

Q: And you think that Mr. Dave paid her the other \$10.00?

A: Well, in a trade, the way it come around, he owed me and he was gonna pay that.

Q: Well of your own knowledge do you know whether he paid or not?

A: Well he paid me, and I suppose he paid her.

Q: But you don't know?

A: No, I don't have any knowledge of it.

Q: Did you and Mrs. Thompson agree on the \$500 as being the price of the labor there?

A: Yes sir.

Q: What sort of work did you do?

A: I think I did two days of carpenter work for her.

Q: On what?

A: On the house where she lives.

Q: Was there a house on this forty acres of land at the time you went there and bargained for it?

A: Yes sir.

Q: You don't know anything about the sixty acres of land?

A: No sir.

Q: You don't know what sort of agreement she had here in Mr. Moorer's office at the time they were adjusting their differences?

A: No sir, I don't know anything about it.

Q: You don't know whether he owed her \$500.00 or \$700.00 on the other piece of land?

A: No sir.

Q: You don't know whether they agreed while up in a field or in Perdido some where to merge the two transactions into one transaction?

A: I don't know anything about that.

(page eleven)

(page twelve)

Q: The only thing you have testified to is that forty acres?

A: Yes sir.

Q: And about paying \$55.00 that you know of, and \$10.00 that Mr. Chambless paid?

A: Yes sir, \$65.00 that I know of and \$10.00 that Mr. Chambless paid.

Q: \$65.00 that you know of, and \$10.00 you think Mr. Chambless paid?

A: Yes sir, I have receipts for them.

TESTIMONY OF WINFIELD S. CHAMBLESS, WITNESS FOR COMPLAINANT.
DIRECT EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANT.

Q:- You are a son of Mr. David Chambless, Deceased?

A: Yes sir.

Q: You're the Administrator of his Estate?

A: Yes sir.

Q: You've qualified in the Probate Court and have Letters of Administration?

A: Yes sir.

Q: You don't know anything about these transactions, these contracts, do you?

A: No sir, I don't know a thing in the world about it.

Mr. Hybart: It is admitted that Winfield S. Chambless is the Administrator of the Estate of David Chambless, Deceased.

Given under my hand and seal this 19th day of December,
1935.

Mary J. Green

9839

Challenger
vs
Thompson

Testimony

W. H. Thompson

Filed 11/1/36
36
Richard L. Dwyer
Clerk of Court

DAVID CHAMBLESS,

Complainant,

-VS-

M. J. THOMPSON AND MRS. SADIE L.
THOMPSON,

Respondents.

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

BRIEF AND ARGUMENT OF RESPONDENTS,

BY:

HYBART & CHASON,
Bay Minette, Alabama.

The bill of complaint in this cause sets forth that on January 5, 1922, as shown by the second paragraph thereof, that the Complainant, David Chambless and the Respondents, M. J. Thompson and Mrs. Sadie L. Thompson, entered into a written contract relative to the sixty acres of land, which is more particularly described in said paragraph, wherein the said Chambless was to pay the sum of THIRTEEN HUNDRED (\$1300.00) DOLLARS as a consideration for this land.

See Exhibit "A" to the bill of complaint, and also Exhibit "A" to Mrs. Sadie L. Thompson's testimony. This agreement stipulates that on the execution of the same that the sum of FIVE HUNDRED THIRTY-SIX AND 50/100 (\$536.50) DOLLARS was to be paid in cash. This sum was so paid, or as Mrs. Thompson states in her testimony was paid by fertilizer bill that she was indebted to Chambless, and to all intents and purposes said cash payment was made. See testimony of Mrs. Sadie L. Thompson. The balance of the purchase price was to be paid as follows: FIVE HUNDRED (\$500.00) DOLLARS on the mortgage due, or executed to The Federal Land Bank of New Orleans by M. J. Thompson and Sadie L. Thompson, and the remaining consideration of TWO HUNDRED SIXTY-THREE and 50/100 (\$263.50) DOLLARS was evidenced by a promissory note payable to the Respondents on the 1st day of November, 1922.

The sixth paragraph of the bill of complaint, or rather the bill of complaint, sets out that in December 1927, the parties to this suit entered in to an oral agreement with the complainant whereby the complainant agreed to purchase and the Respondents agreed to sell for the price of TWO THOUSAND (\$2,000.00) DOLLARS forty acres of land, which is more particularly described in the sixth paragraph of said bill of complaint. So the case made by the complainant in his admissions and averments in the bill of complaint shows that on January 5th, 1922, the Complainant was liable to the Respondents in the sum of SEVEN HUNDRED SIXTY-THREE and 50/100 (\$763.50) DOLLARS, and also liable for the interest on FIVE HUNDRED (\$500.00) DOLLARS from the date that said contract was entered in to, to-wit, 5th day of January, 1922, and the interest on TWO HUNDRED SIXTY-THREE AND 50/100 (\$263.50) DOLLARS at

at the rate of six per cent (6%) per annum from the due date of said note, which was the 1st day of November, 1922, and that in December 1927, the complainant was indebted to respondents in the sum of TWO THOUSAND (\$2,000.00) DOLLARS, together with the interest thereon from said date of purchase until paid. These deductions are made from the averments contained in the complainant's bill of complaint, and as we take it, there can be no escape from the conclusion that we have drawn.

The next thing necessary to reach a conclusion as to the present status of the indebtedness existing as to the lands involved in this suit would be to ascertain from the testimony as to what payments have been made by the complainant in this cause to the respondents, and in arriving at this conclusion, of course, it will be born in mind that the burden of proof is upon the complainant to satisfy the Court's mind by the testimony as to what payments have been made on this indebtedness.

It is Mrs. Thompson's contention, as shown by the evidence of herself and by the testimony of Charles LeNoir Thompson, that the Complainant, in December, 1927, was in arear in his payments on the first transaction in a sum of between SEVEN HUNDRED (\$700.00) DOLLARS and EIGET HUNDRED (\$800.00) DOLLARS, and that the complainant came to Mrs. Thompson and desired to purchase the additional forty acres of land for the purpose of merging the two bodies of land in to a mortgage and securing a long time loan on the same, and that they valued the forty acres of land that he was to purchase at TWO THOUSAND (\$2,000.00) DOLLARS, but that they merged, or had an understanding

and agreement to merge the two transactions in to one, for which the purchase price of the two bodies of land was fixed at TWENTY-FIVE HUNDRED (\$2500.00) DOLLARS, provided the complainant could raise the money right away. See testimony of Mrs. Thompson and Charles LeNoir Thompson.

Mrs. Thompson, as aforesaid, says that the indebtedness on the first lot of land was between SEVEN HUNDRED (\$700.00) and EIGHT HUNDRED (\$800.00) DOLLARS, and that the consideration of the second lot was TWO THOUSAND (\$2,000.00) DOLLARS, and that the failure of the complainant to raise the TWENTY-FIVE HUNDRED (\$2500.00) DOLLARS presently, under the agreement the indebtedness would revert to its original situation. The testimony, and the only testimony in the record on the part of the complainant as to the amount of indebtedness due at the time of the purchase of the forty acres of land is the testimony of W. J. McMillan, who was a witness for the complainant and who is interested in the result of the suit. Mr. McMillan says that in December, 1927, that he was present at a conversation with Mrs. Thompson, in which the complainant stated that the indebtedness on the first transaction was then only FIVE HUNDRED (\$500.00) DOLLARS. It seems that the record discloses that several payments were made by the complainant to the respondents, but when, it is not exactly clear, and these payments are to be gathered, with one or two small exceptions, from the testimony of Mrs. Sadie L. Thompson, who stated, see page 9 of her testimony, that she collected from the State of Alabama, FOUR HUNDRED NINETY-SIX (\$496.00) DOLLARS for gravel. According to the verments of the eighth paragraph of the bill of complaint, the

complainant says that it was agreed that the parties to this suit would sell to the State of Alabama gravel to be used for surfacing highway from the sixty acres of land first described in the bill of complaint and that all monies were to be received by the respondents and by them credited to the account of the complainant in the purchase of the forty acres of land described in said bill of complaint. So from that it appears that the FOUR HUNDRED NINETY-SIX (\$496.00) DOLLARS, less the ONE HUNDRED THIRTY-FIVE (\$135.00) DOLLARS, which was turned over to Mr. Chambless was to be credited on the purchase price of the last land bought. As to the ONE HUNDRED THIRTY-FIVE (\$135.00) DOLLARS turned over to Mr. Chambless, see testimony on cross examination of Mrs. Sadie L. Thompson on page 9. Mrs. Thompson admitted in her testimony on page 10, that the complainant gave her FORTY (\$40.00) DOLLARS at one time; that he let her have NINETY (\$90.00) DOLLARS worth of corn at another time; that he let Red Bryars have FIVE (\$5.00) DOLLARS for her at another time; that he let her have a mowing machine at the price of SIXTY-FIVE (\$65.00) DOLLARS at another time, and that at the time of the purchase of the forty acres of land, or at the time they entered in to the agreement as to the forty acres of land that complainant paid her EIGHTY-FIVE (\$85.00) DOLLARS, as a part of the purchase money, and that he paid to Mr. Moorer for her the sum of FIFTEEN (\$15.00) DOLLARS. So it will appear from the testimony of Mrs. Thompson on cross examination, and that is practically all of the evidence as to any payments made by the complainant to her, that on the first purchase he paid the following sums:

Cash.....	\$40.00;
Corn.....	90.00;
Red Bryars.....	5.00;
Mowing Machine	65.00;

aggregating the sum of TWO HUNDRED (\$200.00) DOLLARS, to say nothing of the interest that he was chargable with, and which should have been paid on the first transaction. That the evidence shows that he had only paid the sum of FOUR HUNDRED NINETY-SIX (\$496.00) DOLLARS, less ONE HUNDRED THIRTY-FIVE (\$135.00), plus EIGHTY-FIVE (\$85.00) DOLLARS, aggregating the sum of FOUR HUNDRED FORTY-SIX (\$446.00) DOLLARS on the forty acres of land, to say nothing of the interest due thereon.

The evidence further shows that the said complainant did not pay the FIVE HUNDRED (\$500.00) DOLLARS to The Federal Land Bank of New Orleans as stipulated therein. The evidence further shows that all of these amounts, less the aforesaid payments, are due by the complainant to the respondents.

The evidence further shows, see testimony of Mrs. Sadie L. Thompson and Charles LeNoir Thompson, that on February 2, 1932, that complainant and respondent, Mrs. Sadie L. Thompson, were in a controversy as to the balance due her on her deal with Chambliss in regard to these lands and that they met at the office of Henry D. Moorer in Bay Minette, and it was then and there agreed between the parties that the amount due on the purchase price of the lands was the sum of TWO THOUSAND (\$2,000.00) DOLLARS. See testimony of Mrs. Sadie L. Thompson and Charles LeNoir Thompson, and the agreement, which is exhibit "B" to the testimony of Mrs. Thompson, and this is the amount that is due respondents and cross complainants by the

complainant, with interest from that time and said lands should be subjected to its payment.

Respectfully submitted,

Hyland & Chason
Attorneys for Respondents and
Cross Complainants.

We hereby certify that we have this day forwarded to Messrs. Beebe & Hall, attorneys for Complainant, Bay Minette, Alabama, postage prepaid, copy of the above and foregoing brief.

This 6th day of April, 1936.

Hyland & Chason
Attorneys for Respondents and
Cross Complainants.

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambliss,
Deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NO. 9839.

And now comes the Complainant, and for answer to the allegations of the Respondent's Cross Bill, and to such paragraphs thereof as require an answer, says:

ONE:

For answer to paragraph Fourth the Complainant says: That the said David Chambliss during his lifetime fully complied with the terms of the written contract of January 5th, 1922, and demanded a conveyance for said property; that it is specifically denied that the sum of Seven Hundred and Ten Dollars (\$710.00), or any part thereof, is due at this time; that the Complainant denies each and every allegation contained in Paragraph Fourth and demands strict proof of the same.

TWO:

For answer to Paragraph Fifth the Complainant says that the conditions of the contract mentioned have been fully complied with and that the said David Chambliss made demand upon the Respondent, Mrs. Sadie L. Thompson, for a conveyance to said lands described, and that the full purchase price agreed upon for said land has been paid.

THREE:

For answer to Paragraph Sixth the Complainant says that the contract between Sadie L. Thompson and David Chambliss was not reduced to writing, but that the said Sadie L. Thompson

placed the said David Chambless in the possession of the said land, that is, the Southwest quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, in Baldwin County, Alabama, and that the said David Chambless, and those claiming under him, have been and are now in the actual possession of said land; that he denies that the said David Chambless had made default in the contract set out in paragraph Second of the original Bill of Complaint. Complainant says that the oral contract was new, separate and apart from the original contract, and that it was understood that the said David Chambless was to pay for the said land described in the oral contract, to-wit: The Southwest quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, was Two Thousand (\$2,000.00) Dollars; that he specifically denies that a new contract was orally entered into in regard to both tracts of land mentioned in said Bill of Complaint, but on the contrary says that the oral contract was to affect only the said forty acres; that at the time the said oral contract was entered into the Complainant says that the original contract in writing had been fully complied with and that the said David Chambless was entitled to and had demanded a deed to the land described in said contract, to-wit: The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, containing 60 acres, but that the Respondent being unable to deliver title to said land for the reason that she had placed a second mortgage against the same; that the Complainant denies each and every material allegation contained in said paragraph and demands strict proof of the same.

FOUR:

For answer to Paragraph Seventh the Complainant says

that the said David Chambless did not accept the terms of said oral agreement as set forth in Paragraph Sixth of the Respondent's Answer and Cross Bill, but, on the contrary, says that the said oral contract was separate and apart from the original contract in writing and formed no part thereof. Complainant further says that the said David Chambless demanded a conveyance to said property, but that the Respondent refused to execute and deliver said conveyance.

FIVE:

For answer to Paragraph Eighth the Complainant admits that the sum of Four Hundred and Ninety-six (\$496.00) Dollars was received by the Respondent, Mrs. Sadie L. Thompson, and it was expressly understood between her and the said David Chambless that the amount received by her would apply against the purchase price of said land, and that upon a proper application of said credits, a sufficient amount had been turned over by the said David Chambless to the Respondent to fully meet the payments required under the second and oral contract, and that if given credit for said amounts the said David Chambless had, during his lifetime, paid the entire amount due on said oral contract, and that often so stated to the Complainant, and had demanded a deed. Complainant further says that at the time of the alleged meeting in the office of Henry D. Moorner, in Bay Minette, Alabama, the question of the gravel was not presented, and that the said David Chambless was not given receipt for said amount; that the Complainant denies each and every material allegation contained in Paragraph Eighth and demands strict proof of the same.

Beche & Snee
Solicitors for Complainant.

ANSWER TO CROSS BILL.

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambless,
Deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY,
NUMBER 9839.

Filed Dec 20 1935
Robert S. Lee
Reg

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambless,
Deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

BRIEF AND ARGUMENT

By

BEEBE & HALL,

Solicitors for Complainant,

Bay Minette, Alabama.

WINFIELD S. CHAMBLESS,
Administrator of the Es-
tate of David Chambless,
Deceased,

Complainant,

VS.

SADIE L. THOMPSON, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NO. 9839.

This cause was originally begun by a suit in ejectment, filed in the Circuit Court of Baldwin County, Alabama, Law Side, styled M. J. Thompson and Mrs. Sadie L. Thompson, Plaintiffs, vs. David Chambless, Defendant, and was, on motion of the Defendant, David Chambless, transferred from the law side to the equity side of the docket, and the Complainant then filed his bill in Chancery, setting up the entering into between the Complainant and the Respondents of a written contract of January 5th, 1922, whereby the Complainant was to purchase from the Respondents sixty acres of land, described as the Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, and subsequent thereto the entering into of an oral contract, whereby he was to purchase from the Re-

spondents the Southwest quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East.

The Complainant, David Chambless, in his prayer, asked for specific performance as to both contracts, alleging a full compliance with the terms of the contract. The Complainant, David Chambless, then died and the present Complainant, Winfield S. Chambless, was, by proper order of the Court, substituted as party Complainant.

The Complainant now sets up the two contracts - that is the one in writing and the verbal one, and asks that the Court grant such relief as he may be in equity and good conscience entitled to receive.

The only testimony offered on behalf of the Respondents is that of one of the Respondents, Mrs. Sadie L. Thompson and her son, Charles Lenoir Thompson. The original contract was originally made and entered into with David Chambless, who is now dead, and the Respondent, Mrs. Sadie L. Thompson, being materially interested in the outcome of the suit, there is, and can be, no question but that her testimony is not admissible (Section 7721 of the Alabama Code of 1923). And too, there can be no question but that the testimony of Charles Lenoir Thompson, a son of Mrs. Sadie L. Thompson, is materially interested

and his testimony should be considered in the light of such interest.

Even though we are to take the testimony of Charles Lenoir Thompson as being relevant, then we have, we might say, the testimony of Charles Lenoir Thompson on the one side and that of W. J. McMillan on the other, and we might say, that the testimony of W. J. McMillan is in a measure borne out by that of R. B. Bryars.

It is undisputed between the parties that Mr. Chambless, now deceased, entered into a written contract to purchase the sixty acre tract described in the Bill of Complaint, with the understanding that when he had paid the purchase price down to Five Hundred (\$500.00) Dollars, he would have the right to demand a deed and that a deed would be executed subject to this outstanding incumbrance.

It is also undisputed that the purchase price of the sixty acre tract of land was Thirteen Hundred (\$1300.00) Dollars, of which amount Five Hundred Thirty-six and 50/100 (\$536.50) Dollars was paid at the time the contract was entered into, and that a little later the sum of Two Hundred Sixty-three and 50/100 (\$263.50) Dollars was paid, making a total paid, in cash, of Eight Hundred (\$800.00) Dollars, and leaving a balance of only Five Hundred (\$500.00) Dollars, or the amount agreed upon to be assumed.

The testimony also shows that Mr. David Chambless went to the place of business of Mrs. Thompson, at Perdido, and demanded a deed to the sixty acre tract of land, but was advised by Mrs. Thompson that she was not in position to execute the deed for the reason that she had given a second mortgage to McMillan & Harrison. If no other payments or matters are to be considered, to the benefit of the Complainant, Mr. Chambless was at that time entitled to receive a deed, having fully complied with the terms of the contract, and he did actually demand his deed. In addition to this, the Respondent, Mrs. Thompson, and also Charles Lenoir Thompson, admit that Mrs. Thompson has been paid, in cash, from the sale of gravel, and by the delivery of personal property and the payment in cash much over Five Hundred (\$500.00) Dollars. Then why should not the Complainant be entitled to specific performance as to the first tract of land, described in the original contract of January 5th, 1922, and being the Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East?

The Respondent, to offset the claim of the Complainant, says that it is true that Mr. Chambless complied with the terms of the written contract, demanded a deed,

and that she was unable to comply with the contract for the reason that she had executed a second mortgage to McMillan & Harrison, but that at the time Mr. Chambless demanded the deed they entered into another and oral contract, whereby Mrs. Thompson was to convey to Mr. Chambless a tract of one hundred acres, including the sixty acres included in the written contract. The Respondents blow rather hot and cold on this question for the reason that they contend that Mrs. Thompson being a married woman and her husband not being present, that an oral contract entered into by her for the sale of the land was and could not be binding by law. Just what is her position in this matter? If we try to follow Mr. Charles Lenoir Thompson in his far fetched theories, just to what extreme are we to be carried in believing that Mr. Chambless, having fully complied with the terms of the written contract, did go to the seller and by entering into an agreement with her, as she contended was done, absolutely abandoned all rights that he had under the written contract that he had complied with, and entered into an oral contract, which is not in any sense of the word binding by law. Is there anyone that would for a moment, considering that the principles of equity had been met in absolutely disregarding all rights

of the Complainant, who holds through David Chambless, under the original contract in writing, which was binding, and permit the substitution of an illegal oral contract.

By carefully reading the testimony of Charles Lenoir Thompson, it will be found that he admits, in part, the statements of W. J. McMillan that a conversation was had in the store of Mrs. Thompson along the lines which Mr. McMillan states, but to offset this says that they took Mr. Chambless and carried him away where there was none present but just he, his mother and Mr. Chambless, and that it was there that the contract was entered into - that is, the oral contract. Mr. Charles Lenoir Thompson realizes that he is trapped in his statements, then on re-direct examination amended his statement in order to clear himself and to try to take from the Complainant that which he is justly entitled to receive.

The Respondents, no doubt, contend that Mrs. Thompson and Mr. Chambless met at the office of Mr. Moorer and settled their differences, however, upon a reading of the agreement which is attached to the testimony of the Respondents, as Exhibit "B", it will be readily seen that this agreement refers to a contract and not to both con-

tracts - that is, the oral and written contracts.

It is agreed by all parties that the purchase price of the second forty acre tract of land was Two Thousand Dollars. It is also agreed that little, if any, was ever paid on this contract. It is also admitted and agreed that the sum of Two Thousand (\$2,000.00) Dollars, the original purchase price of this land, is still due. Then how and by what means can the Court confuse this agreement which refers to a contract with the two original contracts entered into by the parties. This agreement is of itself enough to show a full compliance with the terms and conditions of the original contract in writing, and that the only remaining item is the second or oral contract as to the purchase of the forty acre tract.

The facts, as we see them, are very simple. Mr. Chambless and Mr. and Mrs. Thompson entered into a written contract for the sale and purchase of the sixty acre tract of land. The terms of the contract were met and Mr. Chambless demanded his deed. Mrs. Thompson was unable, for the reason of the execution of a second mortgage, to comply with her contract. Mr. Chambless allowed the matter to rock along. Mrs. Thompson

DAVID CHAMBLESS,

Complainant,

-vs-

M. J. THOMPSON and SADIE
L. THOMPSON,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY.

STATE OF ALABAMA.

BALDWIN COUNTY.

It is agreed by and between the parties, through their Solicitors of Record, that Mary F. Green is to act as Commissioner in taking the testimony of Mrs. Sadie L. Thompson, Charles Lenoir Thompson, W. J. McMillan and Winfield S. Chambless, and is to take the said testimony down in shorthand and is to transcribe the same, and to furnish a copy of the testimony so taken which is to be taxed as a part of the costs, to Beebe & Hall, Solicitors for Complainant, and Hybart & Chason, Solicitors for Respondents; that the signing of the testimony by the witness and the issuance of a commission is hereby waived.

Dated this 24th day of June, 1936.

Beebe & Hall
Solicitors for Complainant.

Hybart & Chason
Solicitors for Respondents.

TESTIMONY OF MRS. SADIE L. THOMPSON.

DIRECT EXAMINATION BY HON. CL. HYBART, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: This Mrs. Sadie L. Thompson?

A: Yes.

Q: You live at Perdido and are more than twenty-one years of age?

A: Yes.

Q: Did you know David Chambless in his lifetime?

A: Yes.

Q: During January, on January 5th, 1922, did you enter into a written contract with him in regard to the sale to him of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South of Range 5 East, containing 60 acres, more or less?

A: Yes.

Q: A copy of this Agreement is attached to your testimony in this case, is it not?

A: Yes.

Q: Were you the owner of the land at that time, Mrs. Thompson?

A: Yes.

Q: What was the consideration for the contract?

A: \$1300.00.

Q: How was that to be paid?

A: ~~With~~ ^{With} a Note as a down payment, a Note that I owed him as a down payment.

Q: How much was that, Mrs. Thompson?

A: \$536.00 and something.

Q: \$536.50?

A: Yes.

Q: And the balance was to be paid how? You owed him \$536.50 on that date?

A: Yes.

Q: And that was to go as a part payment on this contract?

A: Yes.

Q: And the balance then was to be paid how?

A: Well, he was to assume a \$500.00 payment on the Federal Land Bank loan.

Q: Was this sixty acres of land under Mortgage to the Federal Land Bank at that time?

A: Yes.

(page two)

Q: And did he agree to assume the payment of \$500.00?

A: Yes.

Q: Did he ever assume this \$500.00?

A: No.

Q: At no time?

A: No.

Q: Then the balance was evidenced on this purchase price by a note, was it not?

A: Yes sir.

Q: Do you recall the amount of that note?

A: It was Two Hundred and something.

Q: \$263.50?

A: Yes.

Q: Now what became of that note, Mrs. Thompson?

A: It burned when my home burned.

Q: When did your home burn?

A: In 1930.

Q: When was that note payable?

A: It was, he was--

Q: Was it the 1st day of November, 1922?

A: Yes.

Q: And did it bear interest from date?

A: Yes.

Q: At what rate?

A: 6%.

Q: Now later on you entered into another contract with Mr. Chambless, did you not?

A: Yes.

Q: For the sale of 40 acres of land?

A: Yes.

Q: Mentioned in this proceedings?

A: Yes.

Q: And what was the consideration there?

A: That was to be \$2000.00.

Q: Did you have an agreement or understanding with him at the time that you entered into this second contract in regard to the

(page two)

(page three)

sale of the forty acres of land by you to him that if he got the money right away that you would take \$2500.00 for the balance due on the 60 acres and also for the purchase price of the forty acres

A: Yes.

Q: Did he get the money up?

A: No.

Q: Now when was that that you had this second contract with him?

A: In '28, '27 or '28.

Q: '27 or '28?

A: Yes.

Q: Now, Mrs. Thompson, has he made any payments on this note of \$263.00?

A: Yes, he paid me \$40.00 one time.

Q: When was that, Mrs. Thompson?

A: About '25, 1925.

Q: What part of the year 1925?

A: I don't remember.

Q: Would you say it was the first part of the year or the last part of the year? What's your recollection?

A: About summer, I reckon, as I remember.

Q: About the middle of the year?

A: Yes.

Q: Paid you \$40.00. Where were you when he paid you the \$40.00?

A: In Perdido.

Q: Did he make any other payment to you?

A: He paid on that second contract.

Q: How much did he pay on the second contract?

A: He paid \$85.00, stipulated on the second contract.

Q: Was that on the purchase price to bind it?

A: Yes, that was strictly stipulated to bind it.

Q: Did he pay that \$85.00 in money?

A: Yes. There was \$80.00 paid in money and then he paid Red Bry \$5.00.

Q: Did he make any other payment?

A: Yes, he paid \$15.00 to Mr. Moorer.

Q: Attorney's fee, when was that paid?

A: That was in the '30's, after the turn of the '30's, '31 or '32

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Q: Was that at the time he signed this agreement here in which he agreed that he was due you \$2000.00?

A: It was close to that time.

Q: At that time?

A: Yes.

Q: Now did he make any other payment? Did he let you have any corn?

A: Yes. 44½ bushels at \$1.25 a bushel.

Q: When was that Mrs. Thompson?

A: It was along in the winter of '30 or '31.

Q: Did he let you have a mowing machine?

A: Yes, it wouldn't run. He said if I could make it run I could pay him what I wanted to.

Q: You never did agree to pay him \$65.00 for it?

A: When we were arguing about a settlement that if he would get up \$2000.00 to pay cash right now I did agree to the \$65.00, if he would get that \$2000.00 and pay cash right then.

Q: Well was the mower worth \$65.00?

A: No, it was just to try to meet him for a settlement.

Q: And that was by way of compromise?

A: Yes, strictly.

Q: And you never got the \$2000.00, and that ended the transaction?

A: Yes.

Q: And you say the mower was no good?

A: No good. It was 12 years old then and wouldn't run unless we would buy parts.

Q: Mrs. Thompson, at any time did you sell the State some gravel?

A: Yes.

Q: Where was this gravel from?

A: From this land that I sold Mr. Chambless.

Q: Which piece of the land?

A: It is supposed to be on the 60, some of it may be on my sister's land.

Q: Some of it may be on your sister's land?

A: Yes.

Q: What did you get from the State?

A: \$496.00, and some cents.

Q: Did you turn over any of that money to Mr. Chambless?

A: Yes, for material. I have a check here for part of it.

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Q: How much did you turn over to him? Did you turn over to him \$135.00? in cash?

A: Yes.

Q: Did you turn over the items that this check represents here?

A: Yes.

Q: Given to the W. M. Carney Mill Company for \$166.05?

A: Yes.

Q: And endorsed on the check for Chambless lumber account?

A: Yes. You see that was on account, it wasn't in full, and I went back later and paid them in full.

Q: How much did you pay them in full?

A: I paid \$53.00 and something one time, and \$100.00 and something another time.

Q: All for Mr. Chambless?

A: Yes.

Q: And at his request?

A: Oh, yes.

Q: And out of this money that you got from the State of Alabama for this gravel?

A: Yes.

Q: Anything else?

A: There was \$45.00 to the Escambia Hardware Company at one time, and there was another little bill I went back and paid.

Q: Well make your calculations here, and tell us how much you paid for Mr. Chambless, at his request, out of this check?

Q: Out of that check you paid him how much?

A: \$499.05.

Q: That included the moneys received from the State of Alabama for gravel sold from the lands heretofore mentioned, and, in addition thereto, certain moneys that you paid out of your store in Perdido?

A: Yes. There was several accounts that he had in the store.

Q: Now you paid the Carney Mill Company \$100.00 at one time?

A: Yes, it was over \$100.00.

Q: Now do you remember about the time that you paid that \$100.00?

A: This check was one of the payments the 2nd day of February, 1928. It was along about that time, the latter part of January or during February.

Q: 1928?

A: Yes.

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Q: Now the \$166.05, you have the check there?

A: Yes, that check was saved.

Q: We offer in evidence check of Mrs. M. J. Thompson to W. M. Carney Mill Company, and ask that the same be marked Exhibit 1 to her testimony.

Q: Now, the other time you paid the Carney Mill Company \$53.00, when was that?

A: \$53.00 and some cents. It was just along about that time.

Q: Along about the 1st of February, 1928?

A: Yes.

Q: And then at the time you got this money from the State for the gravel you let him have \$135.00 in cash out of it?

A: Not all at one time. I let him have \$100.00 cash one time, and then I let him have \$35.00 for his tax money.

Q: And then you paid the Escambia Hardware Company, is that right?

A: Yes.

Q: And when did you pay that?

A: It was along about that time.

Q: First of February, 1928?

A: Yes.

Q: So after all you realized nothing from the purchase of the gravel by the State of Alabama?

A: No.

Q: Chambless got it all?

A: Yes, he got it all and owed me some on that and owed me a store account too.

Q: Is that all the payments you recollect, Mrs. Thompson?

A: Yes.

Q: Who has paid the taxes on these lands?

A: I have.

Q: Ever since 1922?

A: Yes.

Q: How much taxes have you paid on the 60 acres of land since 1922?

A: There's a memorandum there.

Q: Did you pay, Mrs. Thompson, the year 1922, the sum of \$8.82 on the sixty acres of land to the Tax Collector of Baldwin County?

A: Yes.

Q: Did you pay in 1923 the sum of \$8.82 to the Tax Collector of Baldwin County, Alabama, taxes on the 60 acres of land?

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A: Yes.

Q: In 1924 did you pay the same amount, \$8.82, to the Tax collector?

A: Yes.

Q: In 1925 did you pay the same amount?

A: Yes.

Q: In 1926 did you pay the same amount?

A: Yes.

Q: In 1927 did you pay the same amount?

A: Yes.

Q: Now in 1928 how much did you pay on the 100 acres of land, the 60 and the 40?

A: \$13.00 and some cents.

Q: \$13.12?

A: Yes.

Q: \$8.82 of that amount was for the 60 acres?

A: Yes.

Q: In 1929 what did you pay?

A: The same.

Q: In 1930 what did you pay?

A: The same.

Q: In 1931?

A: The same.

Q: 1932?

A: \$13.12.

Q: 1933?

A: Same amount.

Q: 1934 pay the same amount?

A: Yes.

Q: 1935?

A: Same.

Q: Now in '27 it was jumped from \$8.82 to \$13.12 per year?

A: Yes.

Q: And since 1927 you have been paying \$13.12 on the 100 acres of land, and the reason why it was jumped up was because the 40 acres that you testified to was included in with the 60 acres that you previously contracted as to?

A: Yes.

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Q: Now, Mrs. Thompson, did you sign this Notice here?

A: Yes.

Q: Hubert, have you got a copy of that notice, we want to call on you for it, you or Mr. Chambless, for the original?

Mr. Hall: No.

Q: Haven't got it. Mrs. Thompson did you give Mr. David Chambless this notice on February 25th, 1933?

A: Yes.

Q: Is this a copy of the notice that you gave him?

A: That's a copy, yes.

Q: Did you sign the original notice?

A: Yes.

Q: Did you deliver it to him?

A: Yes, personally.

Q: And did you notify him in that notice that the contract relative to the sixty acres of land had been terminated?

A: Yes.

Q: It was the sixty, was it not?

A: It was the sixty.

Q: That the contract as to the 60 acres had been terminated. Where was Mr. Chambless when you gave it to him?

A: He was in Perdido.

Q: Was that on February 25th, 1933, that you delivered this notice to him?

A: Yes.

Q: Who was with you at the time?

A: Lenoir.

Q: Under that contract that you had with Mr. Chambless, if he failed to keep up the payments or make the payments as stipulated, in the contract, carry out his agreement, you had the right to declare the contract null and void, and such payments as he might have made should go as rent?

A: Yes.

Q: Now, Mrs. Thompson, on this 40 acres of land, on the 40 acres, has there been any timber cut?

A: Yes.

Q: Cut by Mr. David Chambless?

A: And those associated with him, with his consent or under his direction.

Q: How much timber has been cut on the land?

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A: I should say \$125.00.

Q: When was this timber cut?

A: From '28, ever since they have had possession.

Q: In other words, you have been damaged to the extent of \$125.00 for timber cut?

A: Yes.

Q: Approximately how many trees have been cut?

A: Well, there are a good many trees. I should say 20 to 25, more than 25.

Q: What do you mean, big pine trees?

A: Most of them were millable or turpentine timber.

Q: Now, Mrs. Thompson, how many acres in cultivation on this forty acres of land?

A: I should estimate around twenty.

Q: Mrs. Thompson, how much land is in cultivation on the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 1 South, Range 5 East, that's the forty?

A: Well, that's just an estimate, I should estimate about 20 acres.

Q: Are there any pecan trees on it?

A: Yes.

Q: Are those pecan trees bearing?

A: Yes.

Q: How old are they?

A: Around thirty-five years old.

Q: Are they papershell pecans, large pecans?

A: A good many of them are, yes.

Q: How many trees on the place?

A: There were 100 trees on the place when I turned it over to him. I know there are two gone.

Q: Did he cut those down?

A: Yes.

Q: When did he cut them down?

A: Since '28.

Q: What was the value of those trees?

A: Well, certainly not less than \$10.00 apiece.

Q: What would you say, in your judgment, you own land, other lands in that community there?

A: Yes.

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Q: Do you farm?

A: Yes.

Q: What would you say in your judgment would be the reasonable rental value of this forty acres of land that was just described, per year?

A: Well, knowing--

Q: Just give me your judgment?

A: Well, say \$3.00 an acre.

Q: You mean including the woodland and all?

A: I consider I haven't had use of that.

Q: \$3.00 per acre, that includes the pecans and everything?

A: Well, that would average up, you see.

Q: You would say, then, \$120.00 a year?

A: Yes.

Q: That's the reasonable rental value of it?

A: Yes.

Q: And was that same rental value last year? Would it be the same last year, 1935?

A: Yes.

Q: 1934?

A: Yes.

Q: 1933?

A: Yes.

Mr. Chason: Mrs. Thompson, in stating the rental value for the land to be \$120.00 on the forty, did you include the house, the use of the house?

A: No. Just figured the land.

Q: Well what would you say was a fair rental value for the house that is located on this forty acres?

A: Mr. Henry Havarâ said he got \$1.00 a room, and there are four or five rooms in the house.

Q: Well what would be a fair rental value per year for the house?

A: Say \$50.00.

Q: Then the forty acres of land and the house would, in your opinion, have a fair rental value of \$170.00?

A: Well, say \$175.00, because the out houses are included.

Q: \$175.00 would be a fair rental value for the 40 acres of land, with improvements?

A: Yes.

Mr. Hybart: We offer in evidence this notice referred to above

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and ask that the same be marked Exhibit 2 and made a part of Mrs. Thompson's testimony.

CROSS EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR ^{Complainant} ~~Respondent~~.

Q: Mrs. Thompson, you're the Respondent in this matter, aren't you?

A: Yes.

Q: And very materially interested in the outcome of it?

A: Yes.

Q: Mr. David Chambless, the original party, is dead, isn't he?

A: Yes.

Q: Now this original Contract to this 60 acres of land was entered into in 1922?

A: Yes.

Q: When did Mr. Chambless demand a Deed from you to this 60?

A: I don't remember, it might have been around-- I don't remember.

Q: Your best judgment?

A: Say around '26 or '27.

Q: We'll say in 1926 Mr. David Chambless demanded a deed to this 60 acres of land from you, is that right?

A: As best I can remember.

Q: Approximately?

A: Approximately, yes.

Q: Now the original contract price you say was \$1300.00?

A: Yes.

Q: For the 60?

A: Yes.

Q: Who is Charles Lenoir Thompson?

A: He is my son.

Q: Did he have authority to represent you in this matter from time to time with Mr. Chambless?

A: I did my own talking to Mr. Chambless.

Q: I didn't ask that. Did he have authority to represent you from time to time from 1922 to '26, along in there?

A: No.

Q: Did he have any authority to collect any money for you or anything like that?

A: No.

Q: Now the original price cash was \$536.50, wasn't it?

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A: Yes.

Q: \$236.50 was paid subsequent to that time, wasn't it. I mean \$263.50 was later paid, wasn't it?

A: Not on the 60.

Q: Was it paid at all? \$263.50, was that paid by Mr. Chambless to you?

A: Not by Mr. Chambless to me, no.

Q: Was it paid?

A: No.

Q: You heard your son testify in this case before, didn't you, just answer yes or no?

A: Yes, I heard him.

Q: Do you remember me asking him the question whether or not the \$263.50 was paid in addition to the \$536.50?

A: He confused it with this other.

Q: Did you hear me ask him that question?

A: Yes.

Q: He answered that it had been paid, didn't he?

A: I don't remember.

Q: Do you remember this question? You were right here present weren't you?

A: Yes.

Q: And you didn't correct him, did you?

A: I didn't suppose I would be allowed to speak at that time.

Q: And I asked your son this question in your presence, "And under the contract Mr. Chambless was given credit for \$536.50", and he answered, "Something like that, on a Note". Is that right?

A: Yes.

Q: And further question, "And in addition to that \$263.50 was paid?", and he answered, "Not at that time". Not at that time, that was correct?

A: Yes.

Q: And then the question, "When was that paid, do you know?", and he answered, "That was paid as I remember in payments along, because the argument came up that he was not making the, that was the second time the interest came due, that he was not paying enough to pay the interest, and he wanted to take it off the principal and not the interest". Is that right?

A: He didn't pay the full amount of the interest, and still you all have wanted to credit the payments on the principal.

Q: "But there was paid on the original contract after execution something like \$263.50?", and he answered, "Something like that, I don't know the exact amount."

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A: He just was mistaken.

Q: He was wrong? He was wrong in quite a bit of the other testimony that he gave then, wasn't he?

A: I haven't read his testimony.

Q: You don't think so?

A: I don't remember.

Q: You don't remember? Now in 1926 the old gentleman came down and demanded a Deed, and told you that he was ready to assume the \$500.00 due in accordance with the contract, didn't he?

A: He had defaulted then because he had not assumed--

Q: Please answer my question.

A: No.

Q: Did he go to your store?

A: He did not go to me and say to me what you said.

Q: Well, in substance, then, did he say that?

A: He had not paid me and I could not give him a Deed.

Q: I'm not asking you that, just answer me yes or no if you can.

A: No.

Q: And didn't you at that time, when he demanded a Deed, tell him that you were not in position to carry out your contract, because you had made a second mortgage to McMillan-Harrison?

A: No.

Q: Didn't you say that?

A: I did not.

Q: Didn't you testify that on your original testimony?

A: No. I didn't say that I wasn't in a position to give it to him.

Q: What did you tell him?

A: He had not paid me and I could not give him a Deed to it.

Q: What did you tell him?

A: That he had not paid me and I could not give him a Deed.

Q: Did you mention the McMillan-Harrison Mortgage?

A: He knew about it.

Q: Did you mention it to him?

A: He knew about it.

Q: When was that default notice given?

A: On the date that it has there.

Q: In 1933?

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Q: He had demanded a Deed in 1926, hadn't he?

A: About that time.

Q: And you hadn't complied with his demand, had you?

A: No.

Q: And you couldn't comply with his demand, could you?

A: When he paid as he agreed I could have.

Q: Have you any record or any request from him to pay any bills for him? Any written request that you go to Carney Mill Company and pay his bills?

A: That was his agreement.

Q: Have you any written request that you do it?

A: I have the check there.

Q: Where is the written request?

A: Well that second contract-- There was no written request.

Q: He didn't request you to pay any bills, did he?

A: Yes.

Q: Was it in writing?

A: It was verbal.

Q: Never got it in writing from him, is that right?

A: Yes. He accepted the result.

Q: Well why have we a law suit then? The results have never been accepted, have they? Do you remember testifying in this case before, Mrs. Thompson?

A: Yes.

Q: Your testimony this morning is absolutely foreign to what it was the other time, isn't it?

A: No.

Q: You remember me questioning you as to this gravel, don't you? \$496.00 and something you got?

A: Yes.

Q: And at that time you said you paid only \$135.00 to Mr. Chamberless, didn't you? Didn't you testify to that?

A: I had paid this other.

Q: You didn't testify to it? Did you bring it in on the other examination?

A: I don't remember.

Q: Well you remember what you testified to, don't you? You're not ignoring the testimony given by you on the other examination, are you?

A: No.

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Q: This \$135.00 cash that you turned over to Mr. Chambless went on this 40 acres, didn't it, on building the buildings?

A: No, he paid taxes/~~on~~^{with} part of it, on lands that he owned elsewhere.

Q: Do you know whether that was a fact?

A: Only what he told me.

Q: Did any of it go on the 40?

A: The balance of it and some other went on the 40. All of it went on the 40 except \$35.00. Into his hands, he could have put some of it in Perdido on his other buildings, he got the material.

Q: Now this \$35.00, Mrs. Chambless?

A: I am not Mrs. Chambless.

Q: Now you say \$35.00 was turned over to him in cash money, Mrs. Thompson?

A: He got \$135.00 from me. He wanted \$35.00 to pay his taxes, but not on this land.

Q: He got \$35.00 from you?

A: Yes.

Q: That was a part of the \$496.00?

A: Yes.

Q: And you say that went to pay taxes on other land?

A: I suppose so.

Q: Then later he got \$100.00 from you, or the same time?

A: Yes.

Q: Was that given to him in cash money?

A: Cash.

Q: Do you know what he did with that?

A: No.

Q: About that time he was building a house on this property, wasn't he?

A: Yes.

Q: Do you know whether or not the \$100.00 went into the property?

A: I don't know what he did with it.

Q: Now you said something about paying Carney Mill Company or somebody, did you have any written authority from Mr. Chambless to pay that bill?

A: I don't remember that I did.

Q: Have you any written authority or any evidence of his request?

A: My home burned and my records burned.

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Q: You don't recall whether it was in writing or not?

A: He wrote me a number of notes that I had with my records.

Q: Have you any written request to pay the \$45.00 hardware account?

A: I don't remember.

Q: You don't remember. At one time he delivered some corn to you, do you remember how many bushels?

A: $44\frac{1}{2}$.

Q: At how much a bushel?

A: \$1.25.

Q: It was agreed between you that you would allow him \$1.50 a bushel, wasn't it?

A: That was to get together for a compromise.

Q: Who made the agreement with Mr. Chambless, you or your son?

A: I was there.

Q: Your son made the agreement?

A: We all talked. I did my own talking.

Q: Now there was an account with the Peoples Fertilizer Company, Mr. Chambless paid that for you, didn't he?

A: I don't think he has.

Q: You've never been billed for it?

A: I still owe them \$150.00.

Q: Well didn't he pay \$132.60 account for you?

A: I have never been assured of it or told that he did, and I still owe them that.

Q: You instructed him to pay it?

A: I told him to pay it, but he didn't.

Q: Have you a bill from the Peoples Fertilizer Company since that time?

A: I have a record in Court that they're going to sue me if I don't pay it.

Q: This same bill?

A: I suppose so.

Q: When was this \$132.50 bill made?

A: It was after he bought the 40.

Q: Well, when was that?

A: I should say about '29 or '30. It was right about '29 or '30.

Q: About six years ago?

A: I suppose so.

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Q: Now you bought a mowing machine from him?

A: Yes.

Q: \$65.00?

A: It was not worth that. He told me I could pay him what I wanted to, but to try to compromise on the \$2,000.00 I agreed to pay that.

Q: Then there is some \$85.00 payment. How was that paid, Mrs. Chambless?

A: If you please, I am Mrs. Thompson.

Q: I don't mean any insult, I'm just reading these papers and the name is simply on my mind. There was some \$80.00 or \$85.00 that he paid, wasn't there?

A: He paid that specifically on the 40, so I wouldn't take it away from him. He thought I was going to take it back.

Q: Have you any paper evidencing that?

A: I don't think so. There was no written contract on the 40, but that payment was made to clinch it.

~~Q: --There was no written contract on the 40.~~

Q: Did you give him a receipt for it?

A: Yes, I did.

Q: Did you keep a copy of it?

A: It was burned when my place burned.

Q: You did instruct him to pay Mr. Moorner \$15.00 for you?

A: Well Mr. Moorner tried to collect, and he got as much as \$15.00

Q: Now don't you remember at the Postoffice he paid you some \$40.00 or \$50.00 at one time?

A: \$40.00.

Q: Have you given him credit for that?

A: Yes.

Q: Now the County got a right of way across this land, didn't they, across the 60?

A: Yes.

Q: Who collected for that?

A: Mr. Chambless.

Q: Do you know as a matter of fact that he did?

A: I have been told that he did. I did not.

Q: To whom did the Alabama Power Company pay some money for a right of way?

A: Mr. Chambless.

Q: They didn't pay your son, Lenoir?

A: No, they paid Lenoir for some notary work.

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Q: Is there still an outstanding Mortgage to the Federal Land Bank for this land?

A: Yes.

Q: Is there still an outstanding Mortgage to McMillan-Harrison Company against the 60 acres?

A: Yes.

Q: None of this gravel was removed from the 40 acre tract was it that the County or State got?

A: No.

Q: Now this timber, from what tract of land was it cut, Mrs. Thompson?

A: That that I mentioned this morning was cut from the 40. There has been plenty cut from the 60 too.

Q: How many trees were cut from the 40?

A: 25 or more.

Q: What size were they?

A: From turpentine through millable size.

Q: What do you mean, about 8 inches?

A: Say 8 inches at the top. They were large.

Q: About 8 inches at the top. How long were they?

A: They were good long trees.

Q: 20 feet?

A: More than that.

Q: Well, in your best judgment?

A: Around 40 feet, a little more or less.

Q: Were those cut for saw logs or piling?

A: They were cut for wood, stove wood. Some carried out to Perdido. I was told they were selling some.

Q: Who cut them?

A: Mr. Chambless allowed them to be cut if he didn't cut them personally.

Q: These pecan trees, Mrs. Thompson, are they located on the 40 or on the 60?

A: There might be some on both.

Q: In your best judgment?

A: The most of them are on the 40.

Q: In your best judgment how many are located on the 40?

A: Well, it would just be an estimate.

Q: Well, in your best judgment?

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A: 60 or 65, I suppose. There was 100 trees I know because I counted them.

Q: The 60 acre tract and the 40 acre tract join, don't they?

A: Yes.

Q: And both are under one fence?

A: Yes.

Q: There is no separate fence around the 40?

A: No.

Mr. Hall: Now as a part of the testimony of Mrs. Thompson we wish to offer the original testimony offered in the original hearing in this case.

RE-DIRECT EXAMINATION.

Mr. Chason: Mrs. Thompson, in regard to the Peoples Fertilizer Account, isn't it a fact that you have been sued in the Courts and have made payments on that account through this firm?

A: Yes.

Q: The firm of Hybart, Heard & Chason was originally representing the Peoples Fertilizer Company, brought suit against you, and you made payments on that account through the firm?

A: Yes.

Q: And that account is still pending and the suit is still pending in the Court, is it not?

A: Yes.

Q: Mrs. Thompson, at the time that Mr. Chambless called on you for a Deed to this property he had not paid the consideration, had he?

A: No.

Q: And had not complied with his part of the contract?

A: No.

Q: And was he entitled to a Deed at that time?

A: No.

TESTIMONY OF CHARLES LENOIR THOMPSON. DIRECT EXAMINATION BY HON. JOHN CHASON, ONE OF THE SOLICITORS FOR RESPONDENTS.

Q: This is Charles Lenoir Thompson?

A: Yes.

Q: You're the son of Mrs. Sadie L. Thompson? Respondent in this s

A: Yes.

Q: Did you testify before in this case?

A: Yes, I did.

Q: Are you acquainted with the 60 acres tract that was sold by your mother to Mr. Chambless?

A: I am.

Q: Do you know the amount of purchase price that he agreed to pay?

A: About \$1300.00.

Q: Do you know what was paid in cash at that time?

A: Well, there was a Note, I guess you would call it the same as cash.

Q: How much was that?

A: \$536.50, I believe.

Q: That was a Note that your mother owed Mr. Chambless and he marked paid as a payment on this contract?

A: That's correct.

Q: Now do you know of your own personal knowledge what payments were made by Mr. Chambless to your mother on this contract?

A: Let me see, there was a payment, the first one that I remember was about \$40.00.

Q: Paid in cash?

A: I think so.

Q: Where was that paid?

A: In Perdido.

Q: About when?

A: Let me see.

Q: About 1925?

A: That's right.

Q: Now what was the next payment?

A: The next payment is where I was wrong. I thought that the next payment was the payment to the Peoples Fertilizer Company for some fertilizer, but I found that that account is not paid, that mother is being sued for it.

(page two)

Q: Now you say that you understood that he agreed to pay that, but, according to information you now have, didn't?

A: Yes.

Q: As to the other payment we referred to, the \$85.00 payment, do you have any knowledge of that?

A: I remember the \$80.00 at one time and \$5.00 at another time.

Q: Is that the \$5.00 that Mr. Chambless paid to Red Bryars for your mother's account?

A: Yes.

Q: Was \$15.00 paid to Mr. Moorer?

A: He admitted it. I didn't see it.

Q: Now the corn that was turned over by Mr. Chambless to your mother, how much was that?

A: There were 12 bushels before I was hurt and the balance making 44½ bushels after I was hurt.

Q: At how much per bushel?

A: \$1.25. The market was \$1.00 at that time.

Q: What about a mowing machine?

A: She got a mowing machine about that time.

Q: What was the value?

A: It was not worth very much. It was 12 years old. The understanding was that it would be about \$25.00 if we could make it run.

Q: Now have you added up those payments to see about how much they come to, total amount?

A: No.

Q: In your testimony here before when Mr. Hall asked you if there had been \$263.50 paid, and you said something like that, you didn't know the amount?

A: No, and I was taking into consideration this other, also. I was taking into consideration the \$132.50 I found hadn't been paid.

Q: And so, according to that, you would deduct \$132.50 from this \$263.00?

A: At the very least, yes.

Q: Do you know of any other payments that have been made that we haven't referred to?

A: No.

Q: Now in regard to the 40 acres of land that your mother discussed selling to Mr. Chambless, described as the SW¼ of NW¼ of Section 6, Township 1 South, Range 5 East, are you familiar with that land?

A: I am.

(page two)

(page three)

Q: Do you know about how much of that land is in cultivation?

A: Well, I have never measured it, I would estimate about 20 ac.

Q: What else is on that forty acre tract?

A: There is not very much timber on it now. There has been considerable timber cut off, both saw mill and also turpentine timber.

Q: Pecan trees?

A: I don't know the exact amount. There is a large grove there.

Q: Approximately how many would you say?

A: Might be 80 or 85, might be 90. I haven't counted them.

Q: Are they bearing pecan trees?

A: They are.

Q: Any houses on the 40?

A: Dwelling house and out houses, right there close to it.

Q: Are those houses being used in connection with this land?

A: They are.

Q: What would you say would be a fair rental value for this land, considering the land that is cultivatable and the pecan trees and the house, per year?

A: Considering the location and the quality of the soil and the pecan trees, I would say \$175.00.

Q: What would have been a fair rental value for this property in 1935?

A: About the same.

Q: In 1933 and 1934?

A: About the same thing.

Q: About \$175.00 a year?

A: That's right.

Mr. Hybart: Mr. Thompson you know about some gravel being sold to the State of Alabama?

A: Yes sir.

Q: What did it amount to?

A: \$496.00 and something.

Q: \$496.00. Now your mother sold that and collected the money. Did she turn over to Mr. David Chambless any moneys out of it?

A: She did.

Q: How much?

A: Let's see. She turned over \$35.00 one time, \$100.00 another time, and then she paid out of that same money for him a bill to the Escambia Hardware Co. for \$45.00 that I know of, and one to Carney Mill Co. for \$53.00 and forty-nine or fifty-four cents, and another to the Carney Mill Co. for \$166.05, and I think there

(page three)

(page four)

was some more, but I don't remember the exact amount of it.

Q: Would you say it was as much as \$100.00?

A: It was more than \$100.00.

Q: You know she paid that?

A: I know she paid that.

Q: Did she pay those items to the Carney Mill Company and the Escambia Hardware Company at the request of David Chambless?

A: She did.

Q: You know that?

A: I do.

Q: Were you present when the request was made?

A: I was.

Q: Were you present when she paid it?

A: I was present when she paid part of it, and I kept the books. I was present when she paid the Escambia Hardware Company, and I was present at the \$53.00 payment and I was present at the one of \$100.00, and I found that cancelled check for the \$166.00.

Q: Now you saw that Notice which is Exhibit 2 to Mrs. Thompson's testimony to the effect that it terminated the contract between the parties?

A: I did.

Q: In February, 1933?

A: That's right.

Q: Were you present when that notice was delivered to Mr. David Chambless?

A: I drove the car and acted as a witness. She stepped out of the car, handed it to him, and stepped back in.

Q: Did she deliver the original of that copy?

A: She did.

Q: Was it signed by her?

A: It was.

Q: You saw her sign it?

A: I did.

Q: And you saw her deliver it?

A: I did.

Q: And that was about the time it was delivered, about the date of this?

A: It was delivered on that day.

Q: Did Mr. David Chambless cut any timber off of this 40 acres of land?

(page four)

(page five)

A: He did.

Q: How much did he cut?

A: He cut between 25 and 30 saw logs and close to 250 turpentine trees besides small stuff.

Q: Off the 40.

A: Yes, off the 40.

Q: What was the value of that timber?

A: Not less than \$125.00 or \$130.00.

Q: When did he cut this timber?

A: He started cutting in the fall or summer of '28 and cut continuously.

Q: I believe you testified as to the value?

A: I did.

CROSS EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANTS.

Q: You say all of this timber was cut from the 40 acre tract?

A: Yes.

Q: That was soon after Mr. Chambless and your mother entered into this contract?

A: He began cutting soon after that.

Q: Your mother put him into possession of this land, didn't she?

A: She did.

Q: And permitted him to go ahead?

A: What do you mean?

Q: She passed there daily, didn't she?

A: Yes, she passed there daily.

Q: Now how many trees did you say they cut off this 40?

A: Saw logs?

Q: Yes.

A: Between 25 and 30.

Q: What size?

A: From 12 to 24 inches.

Q: And they cut about 25 or 30 of them?

A: Yes.

Q: How many turpentine trees?

A: Close to 250 besides small stuff.

Q: What did they average, about 8 or 9 inches?

(page five)

A: Somewhere from 7 to 12 inches.

Q: And you say they cut 280 trees off this 40 from 7 inches up?

A: That's right.

Q: Now are you acquainted with the terms of the original contract of purchase, that was \$1300.00?

A: Yes.

Q: \$536.50 was given credit as the cash payment?

A: That's right.

Q: Then subsequent to that time Mr. Chambless paid your mother \$263.50, didn't he?

A: No, he did not.

Q: You testified to that on the other examination?

A: I did.

Q: Now, since reflecting on it, you found out that that was not correct?

A: I found from a suit filed in the Courthouse on an account that I was giving him credit for.

Q: Now there were some items that Chambless had paid your mother--

A: \$40.00 and the corn and mower.

Q: And Mr. Moore?

A: Yes, and Mr. Moore.

Q: The testimony that you gave on the original hearing of this cause was substantially correct, wasn't it?

A: Except where I was misinformed as to that.

Q: We offer in evidence the testimony of Mr. Thompson given at the original hearing.

Q: Now do you know whether or not your mother assessed this 60 acres in her name or in Mr. Chambless' name?

A: She assessed it in her name.

Q: Have you a receipt for the taxes that she has paid, or has she?

A: I presume she has because I saw her receive most of them. The tax records will show.

Mr. Hybart: I will ask you here to ascertain from the Tax Records of Baldwin County, Alabama, or, rather, to secure from the Tax Collector of Baldwin County, a certificate, showing the amount of taxes paid by Mrs. Thompson on the 60 acres of land from 1922 to the present time and attach the same as an exhibit to your testimony in this case.

Mr. Hall: Was there any agreement between Mrs. Thompson and Mr. Chambless as to who would pay the taxes on that land?

A: Yes.

Q: Who was to pay them?

(page seven)

A: Mr. Chambless.

Q: Is that embodied in the contract?

A: I don't know.

Q: Did the contract speak the true agreement between the parties Mr. Thompson?

A: It did.

Q: There is still outstanding the Federal Land Bank Mortgage, Mr. Thompson?

A: Yes.

Q: Against the 60, in fact against the entire property?

A: That's right.

Q: Is there any other outstanding indebtedness or encumbrance that you know of?

A: Yes.

Q: What is that?

A: McMillan-Harrison Mortgage.

Q: Do you know how much is due on the Federal Land Bank Mortgage?

A: \$2000.00.

Q: Originally?

A: Yes.

Q: And it has been running how long?

A: I don't know.

Q: How much is due on the McMillan-Harrison Mortgage?

A: Most all of it, I think. I don't know because I haven't kept up with it.

Q: Now you mentioned Mrs. Thompson paying some bills to the Escambia Hardware Company and the Carney Mill Company. Do you know whether or not Mr. Chambless authorized those payments in writing?

A: He authorized them.

Q: Do you know whether he authorized them in writing or not?

A: No, I don't.

Q: Did your mother give him credit, or charge those several items to him, as the case might be?

A: She took them into consideration.

Q: And your mother and Mr. Chambless down here in Bay Minette signed up that there was a balance due of \$2000.00?

A: That was a compromise agreement.

Q: They both signed it?

A: It was a compromise agreement.

(page seven)

(page eight)

Q: It is in evidence here, isn't it?

A: I haven't seen it.

Q: It was offered before?

A: Yes.

Q: And the purchase price of the 40 acres was agreed on at \$2000.00?

A: Yes.

RE-DIRECT EXAMINATION.

Mr. Hybart: When you met here at Mr. Moorer's and Mrs. Thompson and Mr. Chambless entered into that agreement, was it the understanding that she would take this \$2000.00 if it was paid immediately and in cash?

A: Yes, it was.

Q: And that she would accept it in lieu of the full amount by way of a compromise, and that if he paid the \$2000.00 that would end the transaction?

A: Yes.

Q: And he never paid the \$2000.00?

A: Never paid it.

RE-CROSS EXAMINATION.

Mr. Hall: That was not written into the agreement, was it? The agreement was that it was agreed between the parties that Mr. Chambless owed her \$2000.00 on contract?

A: Yes.

RE-DIRECT EXAMINATION.

Q: That was the consideration, wasn't it?

A: To get together it was. If he settled it at once.

Q: Are you acquainted with W. J. McMillan?

A: I am.

Q: Is he the same McMillan who testified in this case here?

A: He is.

Q: How long have you known him?

A: 12 years.

Q: What relation did he bear to David Chambless?

A: He married his daughter, Georgia, and they are still living together.

TURN BILL WITH REMITTANCE

Office of
JESSE M. SMITH
Tax Collector

SEND STAMPS FOR REPLY

BEAT No. 5

ASSESSMENT No. 368

THE STATE OF ALABAMA,
Baldwin County.

Tax for 1935

Mrs. Sadie L. Thompson

Receipt # 73 17 PD 5-1-36

*Jesse M. Smith
Tax Coll.*

Value Real Estate

Value Personal Property

State and County Tax

District School Tax

Collector's Fees \$

Assessor's Fees \$

Interest and Decree and Levy

Printer \$ 1.00 Judge \$ 2.50 Notice

Total Amount of Tax

VALUATION

DOLLARS

CENTS

2125

110

40

23

6

71

50

95

34

48

74

Your taxes become delinquent Jan. 1st, 1936, and will be subject to interest, levy and cost of advertising and sale.

Please pay your taxes at once and save further expense.

JESSE M. SMITH,
Tax Collector, Baldwin County

FURNISH BILL WITH REMITTANCE

Office of
JESSE M. SMITH
Tax Collector

SEND STAMPS FOR REPLY

BEAT No. 5

ASSESSMENT No. 357

THE STATE OF ALABAMA,
Baldwin County.

{ Tax for ~~1935~~
1934

Mrs Sadie L. Thompson

Receipt # 7064-Pd 6-3-35

Value Real Estate

Value Personal Property

State and County Tax

District School Tax

Collector's Fees \$ Assessor's Fees \$

Interest and Decree and Levy

Printer \$ Judge \$ Notice

Total Amount of Tax

VALUATION	
DOLLARS	CENTS
<i>3125</i>	
<i>110</i>	
<i>40</i>	<i>23</i>
<i>6</i>	<i>71</i>
<i>1</i>	<i>60</i>
<i>48</i>	<i>54</i>

Your taxes become delinquent Jan. 1st, 1936, and will be subject to interest, levy and cost of advertising and sale.

Please pay your taxes at once and save further expense.

JESSE M. SMITH,
Tax Collector, Baldwin County

please pay Receipt. **TURN BILL WITH REMITTANCE**

Office of
JESSE M. SMITH
 Tax Collector

SEND STAMPS FOR REPLY

BEAT No. 5 ASSESSMENT No. 390

THE STATE OF ALABAMA,
 Baldwin County.

Tax for 1935
 1932

M. McAdams L. Thompson

	VALUATION	
	DOLLARS	CENTS
<i>Receipt # 6303-84 4-21-34</i>		
<i>Jesse M. Smith</i>		
<i>Tax Collr.</i>	2125	
Value Real Estate	110	
Value Personal Property		
State and County Tax	40	23
District School Tax	6	71
Collector's Fees \$ Assessor's Fees \$		
Interest and Decree and Levy	1	16
Printer \$ Judge \$ Notice		
Total Amount of Tax	48	10

Your taxes become delinquent Jan. 1st, 1936, and will be subject to interest, levy and cost of advertising and sale.

Please pay your taxes at once and save further expense.

JESSE M. SMITH,
 Tax Collector, Baldwin County

Duplicate Tax Receipt

TURN BILL WITH REMITTANCE

Office of
JESSE M. SMITH
Tax Collector

SEND STAMPS FOR REPLY

BEAT No. 5

ASSESSMENT No. 298

THE STATE OF ALABAMA,
Baldwin County.

Tax for 1935

1932

Mrs. Sadie L. Thompson

VALUATION

DOLLARS

CENTS

Receipt # 7187 01-7-3-33

Jesse M. Smith
Tax Collector

2125

110

40

23

6

71

1

89

48

83

Value Real Estate

Value Personal Property

State and County Tax

District School Tax

Collector's Fees \$ Assessor's Fees \$

Interest and Decree and Levy

Printer \$ Judge \$ Notice

Total Amount of Tax

Your taxes become delinquent Jan. 1st, 1936, and will be subject to interest, levy and cost of advertising and sale.

Please pay your taxes at once and save further expense.

JESSE M. SMITH,
Tax Collector, Baldwin County

Duplicate Tax Receipt **TURN BILL WITH REMITTANCE**

Office of
JESSE M. SMITH
 Tax Collector

SEND STAMPS FOR REPLY

BEAT No. 5 ASSESSMENT No. 291

THE STATE OF ALABAMA,
 Baldwin County.

Tax for 1935
1931

Mrs. Sabie L. Thompson

	VALUATION	
	DOLLARS	CENTS
<i>Receipt # 7154 Pg 3 N 3rd</i>		
<i>Jesse M. Smith</i>		
<i>Tax Coll.</i>		
Value Real Estate	<i>2125</i>	
Value Personal Property	<i>100</i>	
State and County Tax	<i>40</i>	<i>23</i>
District School Tax	<i>6</i>	<i>71</i>
Collector's Fees \$		
Assessor's Fees \$		
Interest and Decree and Levy		
Printer \$		
Judge \$		
Notice		
Total Amount of Tax	<i>46</i>	<i>94</i>

Your taxes become delinquent Jan. 1st, 1936, and will be subject to interest, levy and cost of advertising and sale.

Please pay your taxes at once and save further expense.

JESSE M. SMITH,
 Tax Collector, Baldwin County

Give name _____

List of Property Returned by Mrs. Bessie L. Thompson, Beat No. 5

P. O. Address Lardido Occupation Farmer

To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931

Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.

Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

10% Penalty		
Total		

Oath to be Administered to Taxpayer.—“I do solemnly swear that the foregoing list of property returned by me Mrs. Helen L. Thompson
(If not his own property, here state the capacity in which he returns such property for assessment)

is a full and complete return of all the property owned by me
(Here state “me” if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned)

or in which I
(Here designate the owner for whom return is made)

had any interest whatever, the situs of which for taxation, or exemption from taxation, is
in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and

Give name _____

	EXEMPT		(Next Page)	Ta
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Total_

Oath to be Administered to Taxpayer.—"I do solemnly swear that the foregoing list of property returned by me

is a full and complete return of all the property owned by _____ (Here state "me" if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned) or in which _____ had any interest whatever, the situs of which for taxation, or exemption from taxation, is _____ (Here designate the owner for whom return is made) in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and of the improvements on lands listed in the foregoing schedule, so help me God."

List of Property Returned by W. H. Sadler & Sons, Beat No. 5
P. O. Address Opelika Occupation DR
To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931
Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.
Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

Give name _____

pay- Esti- e of lue %	Tax Assessor's Value for Assess- ment	Valuation by Board of Review
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REAL ESTATE—DESCRIPTION	S.	T.	R.	No. Acres	Preceding Year's Valuation	Taxpayer's Estimate of Value (60%)	Tax Assessor's Value for Assessment	Valuation by Board of Review
(either mineral right, surface right, timber right, turpentine right, or other right)								

[illegible][illegible]

HAVE YOU LISTED ALL IMPROVEMENTS LOCATED ON THE ABOVE DESCRIBED PROPERTY? Answer yes or no _____
 Real Estate bought from whom? _____ Price paid \$ _____
 Real Estate sold to whom? _____ Price paid \$ _____

Oath to be Administered to Taxpayer.—"I do solemnly swear that the foregoing list of property returned by me Mrs. Edith S. Thompson
(If not his own property, here state the capacity in which he returns such property for assessment)
is a full and complete return of all the property owned by me
(Here state "me" if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned)
or in which I had any interest whatever, the situs of which for taxation, or exemption from taxation, is
(Here designate the owner for whom return is made)
in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and
of the improvements on lands listed in the foregoing schedule, so help me God."

Were you on the first day of October of the present year an executor, administrator, curator, guardian, committee, assignee, commissioner, receiver or trustee of any person?
Give name _____
Have you in your possession or under your control any property or other thing of value belonging to any other person or corporation? _____ Give name of owner _____
Do you have an infant son or daughter who is a member of your family and who owns property? _____
Does your wife own property? _____ Has it been assessed for taxation? _____
Does any other member of your family who resides with you own property? _____
Give name _____

Personal Property \$ 40
Total \$ 22.35
Total Tax 40.73
Assessor's Fee _____
School District No. 29 Tax 6.21
School District No. _____ Tax _____
School District No. _____ Tax _____

List of Property Returned by Proddo Jela, Beat No. 5
P. O. Address _____ Occupation _____
To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931
Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.
Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

Insurance	PERSONAL PROPERTY—DESCRIPTION	EXEMPT Based on 100% Value		No.	Next Preceding Year's Valuation	Taxpayer's Estimate of Value 60%	Tax Assessor's Value for Assessment	Valuation by Board of Review	Insurance	REAL ESTATE—DESCRIPTION (Note whether mineral right, surface right, timber right, turpentine right, or other right)	S.	T.	R.	No. Acres	Preceding Year's Valuation	Taxpayer's Estimate of Value (60%)	Tax Assessor's Value for Assessment	Valuation by Board of Review
		No.	Value															
\$	1. Household and kitchen furniture																	
	2. Hogs																	
	3. Sheep																	
	4. Cows and calves																	
	5. Sewing machines																	
	6. Farming tools, mechanical tools																	
	7. Poultry																	
	8. Cattle No. _____ Goats No. _____																	
	9. Cotton and other agricultural products																	
	10. Printing presses, equipment and materials																	
	11. Docks, wharves, wharf-boats, landings and warehouses, private or community ferries, canals, ditches, channels, tramroads, pole roads																	
	12. Steamboats, vessels and water-craft of every name or kind																	
	13. Stocks of goods, wares and merchandise, based on average amount carried during the 12 months preceding Oct. 1st. Amount to be not less than capital employed in the business																	
	14. Libraries																	
	15. Pianos and other musical instruments																	
	16. Paintings																	
	17. Precious stones, jewelry, plate, silverware, ornaments and articles of taste																	
	18. Watches, clocks																	
	19. Wagons, buggies, bicycles and all other vehicles except motor vehicles																	
	20. Typewriters, adding machines, cash registers, iron safes, office and store furniture and fixtures																	
	21. Guns, pistols, canes																	
	22. Horses and mares																	
	23. Mules																	
	24. Studs, jacks, jennets																	
	25. Machinery and equipment of furnaces, rolling mills, mines, quarries, etc.																	
	26. Machinery and equipment of cotton gins, oil mills, cotton compresses, grain elevators, flour and grist mills, saw mills and other manufacturing establishments not included in Item No. 25																	
	27. Supplies, raw materials and manufactured articles of manufacturers, not including products manufactured within twelve months and stored at point of manufacture																	
	28. Money hoarded, whether in custody of the owner or in safety deposit vault or elsewhere (but not including money on deposit in banks)																	
	29. Shares of stock in any incorporated company (including banks other than national banks) not incorporated under the laws of this State unless listed and recorded and tax thereon paid as provided for in Sections 44 to 51, inclusive, of Revenue Act of 1927																	
	30. All investments in bonds not exempt from taxation																	
	31. On the gross amount of commissions or sums charged and received during each year by any auctioneer, provided, nothing herein contained shall be construed as levying a tax on commissions received for the sale or rental of real estate, or brokerage on loans on real estate or the underwriting of insurance																	
	32. All other property, real, personal and mixed not hereinbefore specified																	
	33. On gross sales of goods, wares, merchandise, and fruit by cargo at auction during preceding years (to be taxed to auctioneers at one-eighth of one per cent.)																	
	34. Gross sales at auction of goods, wares, and merchandise except cargo sales by cargo (Item 33) during preceding twelve months to be taxed to auctioneer at one-quarter of one per cent.																	

10% Penalty _____
Total _____

REMARKS _____

Assessor's Fee, \$ _____ 10% Penalty _____

HAVE YOU LISTED ALL IMPROVEMENTS LOCATED ON THE ABOVE DESCRIBED PROPERTY? Answer yes or no _____
Real Estate bought from whom? _____ Price paid \$ _____
Real Estate sold to whom? _____ Price paid \$ _____

CITY PROPERTY—DESCRIPTION
Lot No. _____ Block No. _____ Addition or City of _____

Oath to be Administered to Taxpayer.—"I do solemnly swear that the foregoing list of property returned by me _____ (If not his own property, here state the capacity in which he returns such property for assessment) is a full and complete return of all the property owned by _____ (Here state "me" if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned) or in which _____ had any interest whatever, the situs of which for taxation, or exemption from taxation, is in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and of the improvements on lands listed in the foregoing schedule, so help me God."

Insurance	PERSONAL PROPERTY—DESCRIPTION	EXEMPT Based on 100% Value		No.	Next Pre- ceding Year's Valuation	Taxpay- er's Esti- mate of Value 00%	Tax Assessor's Value for Assess- ment	Valuation by Board of Review
		No.	Value					
\$	1. Household and kitchen furniture		50	1				
	2. Hogs	2	10	2				
	3. Sheep			3				
	4. Cows and calves	4	40	4				
	5. Sewing machines			5				
	6. Farming tools, mechanical tools			6				
	7. Poultry	44	20	7				
	8. Cattle No. _____ Goats No. _____			8				
	9. Cotton and other agricultural products			9				
	10. Printing presses, equipment and materials			10				
	11. Docks, wharves, wharf-boats, landings and warehouses, private or community ferries, canals, ditches, channels, tramroads, pole roads			11				
	12. Steamboats, vessels and water-craft of every name or kind			12				
	13. Stocks of goods, wares and merchandise, based on average amount carried during the 12 months preceding Oct. 1st. Amount to be not less than capital employed in the business.			13				
	14. Libraries			14				
	15. Pianos and other musical instruments			15				
	16. Paintings			16				
	17. Precious stones, jewelry, plate, silverware, ornaments and articles of taste			17				
	18. Watches, clocks			18				
	19. Wagons, buggies, bicycles and all other vehicles except motor vehicles			19	1	10		
	20. Typewriters, adding machines, cash registers, iron safes, office and store furniture and fixtures			20				
	21. Guns, pistols, canes			21				
	22. Horses and mares			22	2	100		
	23. Mules			23				
	24. Studs, jacks, jennets			24		110		
	25. Machinery and equipment of furnaces, rolling mills, mines, quarries, etc.			25				
	26. Machinery and equipment of cotton gins, oil mills, cotton compresses, grain elevators, flour and grist mills, saw mills and other manufacturing establishments not included in Item No. 25			26				
	27. Supplies, raw materials and manufactured articles of manufacturers, not including products manufactured within twelve months and stored at point of manufacture			27				
	28. Money hoarded, whether in custody of the owner or in safety deposit vault or elsewhere (but not including money on deposit in banks)			28				
	29. Shares of stock in any incorporated company (including banks other than national banks) not incorporated under the laws of this State unless listed and recorded and tax thereon paid as provided for in Sections 44 to 51, inclusive, of Revenue Act of 1927			29				
	30. All investments in bonds not exempt from taxation			30				
	31. On the gross amount of commissions or sums charged and received during each year by any auctioneer, provided, nothing herein contained shall be construed as levying a tax on commissions received for the sale or rental of real estate, or brokerage on loans on real estate or the underwriting of insurance			31				
	32. All other property, real, personal and mixed not hereinbefore specified			32				
	33. On gross sales of goods, wares, merchandise, and fruit by cargo at auction during preceding years (to be taxed to auctioneers at one-eighth of one per cent.)			33				
	34. Gross sales at auction of goods, wares, and merchandise except cargo sales by cargo (Item 33) during preceding twelve months to be taxed to auctioneer at one-quarter of one per cent.			34				

INSURANCE ON IMPROVEMENTS MUST BE SHOWN

REMARKS

List of Property Returned by Mr. Budie L. Thompson, Beat No. 5
P. O. Address Perdido, Ala Occupation _____
To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931

Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.

Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

HAVE YOU LISTED ALL IMPROVEMENTS LOCATED ON THE ABOVE DESCRIBED PROPERTY? Answer yes or no _____

Real Estate bought from whom? _____ Price paid \$ _____

Real Estate sold to whom? _____ Price paid \$ _____

Oath to be Administered to Taxpayer.—"I do solemnly swear that the foregoing list of property returned by me Mrs. L. L. Thompson
(If not his own property, here state the capacity in which he returns such property for assessment)
is a full and complete return of all the property owned by me
(Here state "me" if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned)
or in which I had any interest whatever, the situs of which for taxation, or exemption from taxation, is
(Here designate the owner for whom return is made)
in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and
of the improvements on lands listed in the foregoing schedule, so help me God."

Give name.

List of Property Returned by Mrs. Sadie L. Thompson, Beat No. 5
P. O. Address Jerdido Ala Occupation _____
To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931

Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.

Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

10% Penalty.
Total

Oath to be Administered to Taxpayer.—“I do solemnly swear that the foregoing list of property returned by me Wm. Sadie & Thompson
(If not his own property, here state the capacity in which he returns such property for assessment)
is a full and complete return of all the property owned by my me
(Here state “me” if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned)
or in which my me had any interest whatever, the situs of which for taxation, or exemption from taxation, is
(Here designate the owner for whom return is made)
in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and
of the improvements on lands listed in the foregoing schedule, so help me God.”

Give name _____

List of Property Returned by Mr. J. L. Thompson, Beat No. 5

P. O. Address Ferdido Ala Occupation 1929

To G. W. ROBERTSON, Tax Assessor, Baldwin County, Alabama, for the Year 1931

Section 54. (Rev. Act 1919). It shall be a misdemeanor for any taxpayer, or attorney, or agent, of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the tax assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or to fail to return the same to the assessor as prescribed by law.

Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

10% Penalty				HAVE YOU LISTED ALL IMPROVEMENTS LOCATED ON THE ABOVE DESCRIBED PROPERTY? Answer yes or no.
Total				Real Estate bought from whom? Lot 3) Blk 1 - B On Letter Price paid \$ 200.00
				Real Estate sold to whom? Lot 15 Greenwood Summary WP Blapher Price paid \$ 350.00

is a full and complete return of all the property owned by one
(Here state "me" if the property returned is his own property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned)
or in which 9 had any interest whatever, the situs of which for taxation, or exemption from taxation, is
(Here designate the owner for whom return is made)
in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and
of the improvements on lands listed in the foregoing schedule, so help me God."

Give name _____

Section 402. (Rev. Act 1919). Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must, on conviction, be fined not less than twenty dollars nor more than one thousand dollars.

INSURANCE ON IMPROVEMENTS MUST BE SHOWN

Assessor's Fee, \$ 30

10% Penalty

Real Estate sold to whom? ADD Stapleton Price paid \$ 11

(Here designate the owner for whom return is made)

in this county, on the first day of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, to my personal knowledge, and

TESTIMONY OF W. J. McMILLAN. DIRECT EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANTS.

Q: This is W. J. McMillan?

A: Yes.

Q: Do you know the 40 acres of land in question here in suit between Mr. Chambless and Mrs. Thompson?

A: I do.

Q: Do you live on that tract of land?

A: Yes.

Q: Do you know this 40 acres tract of land in question that was contracted for separate from the 60?

A: Yes sir.

Q: How many acres-- Are you living on that tract?

A: Yes sir.

Q: Are you cultivating part of it?

A: Part of it.

Q: How many acres are in cultivation?

A: Well some of it is not fit to work. We aint working it. We're working about 10 or 12 acres, something like that, it has never been measured.

Q: Now there's a house up there, is it on the 40?

A: It's on the forty.

Q: What kind of house is it?

A: Bungalow.

Q: What kind of roof?

A: Paper roof.

Q: What kind of lumber?

A: Well, most of it is No. 2 and No. 3.

Q: Is it ceiled?

A: No.

Q: Are there any pecan trees on the 40?

A: There is.

Q: How many?

A: Oh, I don't know, Mr. Hubert, something like 40.

Q: Are they bearing?

A: Part of them is.

(page one)

TESTIMONY OF W. J. McMILLAN. DIRECT EXAMINATION BY HON. HUBERT HALL, SOLICITOR FOR COMPLAINANTS.

Q: This is W. J. McMillan?

A: Yes.

Q: Do you know the 40 acres of land in question here in suit between Mr. Chambless and Mrs. Thompson?

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Q: Do you live on that tract of land?

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A: It's on the forty.

Q: What kind of house is it?

A: Bungalow.

Q: What kind of roof?

A: Paper roof.

Q: What kind of lumber?

A: Well, most of it is No. 2 and No. 3.

Q: Is it ceiled?

A: No.

Q: Are there any pecan trees on the 40?

A: There is.

Q: How many?

A: Oh, I don't know, Mr. Hubert, something like 40 or 50.

Q: Are they bearing?

A: Part of them is.

(page two)

Q: What kind of pecans are they?

A: Well some of them pecans are about like that. They are all seedlings. I call them small pecans. There aint no papershells on it. There's one tree that's mixed with papershells.

Q: Have you any experience in renting land like that, farm land?

A: Yes.

Q: What is a fair rental value for that land as it is?

A: The whole 40 or what's in cultivation?

Q: The whole 40.

A: I don't know, Mr. Hubert.

Q: In your best judgment?

A: I been paying \$2.50 an acre for what I worked.

Q: What has been the fair rental that you have paid?

A: \$45.00 for what I'm working at \$2.50 an acre.

Q: That includes the house?

A: Yes.

Q: Everything. Way back in 1925 or 1926 did you go down to Mrs. Thompson's store with Mr. Chambless?

A: I did.

Q: At that time did Mr. Chambless demand a Deed to this 60 acres of land?

A: He went to her and said, "I'm ready to take up \$500.00 with the long loan, and you can give me a Deed to that 60 acres". She said, "I can't do it, because I put the second Mortgage on it". So she kept on at him to buy the other 40, and he agreed to take it.

Q: Did he tell her that day he had paid up the entire amount down to the \$500.00 and was ready to take it up?

A: He did. And since that Mr. Chambless and me was down here in Mr. Hawkins' office, and he asked him why couldn't he put a loan on this land, and he says, Mr. Hawkins says, she don't want you to put one on it. That's what Mr. Hawkins said.

CROSS-EXAMINATION BY MR. HYBART.

Q: You were kind of mixed up in the 40 acres yourself, weren't you?

A: Yes, I was to take 20 acres of it.

Q: You were sort of partners in it?

A: Yes sir.

Q: And you were down there for that purpose at that time, weren't you?

A: Not that day, no. He asked me would I take part of it, and I said yes, I would take it.

(page two)

(page three)

Q: And you agreed there that day with him, didn't you?

A: I did.

Q: And you made the deal that day, didn't you?

A: Yes.

Q: And then you went into possession of the 40 acres, didn't you?

A: There was no house. We built the house on it.

Q: And you moved over there?

A: I did.

Q: How long did you stay there?

A: Stayed there 2 years, moved off and stayed 2 years and went back and still there.

Q: And been trying to hold it and claim it?

A: No, I'm just there paying rent.

Q: Who're you paying rent to?

A: This man right here.

Q: How many acres you say you're renting there?

A: On the 40?

Q: Yes.

A: I don't know, between 10 and 12 acres, something like that.

Q: Who else works land on that 40?

A: Well, Chambless here has got just a little of it.

Q: How much has he got on it?

A: About 2 acres.

Q: What's he growing on it?

A: Corn.

Q: What did you grow on it last year?

A: Corn.

Q: Grow any cotton?

A: Not on that piece, no.

Q: Did you make a pretty fair corn crop?

A: No, I didn't make very much corn last year, something like 60 bushels.

Q: You mean to the acre?

A: The whole thing.

Q: And do you have any cotton this year?

A: Not on this piece, no. (page three)

(page four)

Q: So you say you have 10 or 12 acres there?

A: Something like that.

Q: And Mr. Chambless has got a little better than 2 acres?

A: Something like 2 acres.

Q: And then there's other land that's open there and subject to cultivation there, isn't there?

A: Yes.

Q: How much would you say was open and subject to cultivation that's not in cultivation?

A: I reckon two or three acres, maybe more than that.

Q: Mr. McMillan, isn't there about 20 acres there on the place that's open and subject to cultivation?

A: It may be, I don't know.

Q: You wouldn't say that there wasn't?

A: No, I wouldn't say there was or wasn't.

Q: Now you say that you agreed to pay \$2.50. What is the reasonable rental value for such lands in that community there?

A: Now I don't know. Some pays one price and some another.

Q: You don't know what lands renting for in that community, other than yourself?

A: No.

Q: You're not familiar with it?

A: No.

Q: And you wouldn't be capable of expressing an opinion, would you?

A: No.

Q: Who has been getting the pecans?

A: What few was there Mr. Chambless got them. Some don't bear and some little bitty ones never was picked up.

Q: Who got the big pecans?

A: Chambless and us together. I reckon we got something like 100 pounds last year, and some of the trees wasn't picked up, just little bitty ones, just let them go.

Q: Didn't you use them for other things, feed them to the hogs?

A: Other people's hogs came in and ate them before we got through gathering them.

Q: What would you say in your judgment would be a fair rental value for the 40 acres of land?

A: I couldn't say because I don't know anything about it.

Q: What relation are you to the Administrator over there?

A: Brother-in-law.

TESTIMONY OF WINFIELD S. CHAMBLESS. DIRECT EXAMINATION BY HON.
HUBERT HALL, SOLICITOR FOR COMPLAINANTS.

Q: Mr. Chamblless, do you know this 40 acres of land in question?

A: Yes.

Q: Have you had experience in renting lands to people?

A: Yes.

Q: Are you acquainted with the land?

A: Yes.

Q: In your judgment what is a fair rental for this 40 acres of land per year?

A: Well, taking it with the pecan orchard on it, the pecans aint no good, you can't sell them, I figure about \$40.00 or \$50.00 would be a fair price and a good one for the year for the whole piece, because the house is not ceiled and no chimney or flue to it, a fellow has got to furnish his own heater during the winter time. \$40.00 or \$50.00 would be a good price.

Q: What kind of land is it?

A: Sandy land.

Q: Grow a good crop?

A: In places.

Q: The old road goes through there?

A: Yes. I expect the road takes up an acre or more right down through there. I expect there's six or eight acres in the pecan orchard not in cultivation.

CROSS-EXAMINATION BY HON. C. L. HYBART.

Q: How many acres of land subject to cultivation?

A: Well, if you cultivate the pecan orchard there I expect around 20.

Q: It can be cultivated, can't it?

A: Well, if pecans are worth anything, if the trees bear, you can't cultivate it.

Q: You've got some papershells there, haven't you?

A: If there is any papershells there somebody else got them. I call them pig nuts.

Q: Well you can use them for hogs, can't you?

A: If a fellow had any hogs and they would eat them, some of them are bitter.

Q: You mean a hog wouldn't eat the pecans?

A: Well, I call them pig nuts, and I don't believe a hog would eat them.

I, Mary F. Green, as Commissioner, hereby certify that the foregoing deposition of Charles Lenoir Thompson, Mrs. Sadie L. Thompson, W. J. McMillan and Winfield S. Chambless, on oral Examination, was taken down in writing by me in the words of the witnesses, said witnesses having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

Given under my hand and seal this 24th day of June, 1936.

Mary F. Green

Comr
FAS
\$1500

June 1936

DAVID CHAMBLESS,
Complainant,
vs.

M. J. THOMPSON and
MRS. SADIE L. THOMPSON,
Respondents.

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

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

Comes your complainant, DAVID CHAMBLESS, and respectfully
represents and shows unto your Honor and this Honorable Court as fol-
lows:

FIRST:

That your complainant and the respondents are residents
of Baldwin County, Alabama, over twenty-one years of age.

SECOND:

That on January 5, 1922, the respondents entered into a
contract with the complainant to sell and convey to him upon the per-
formance of the conditions set out therein the following described
lands in Baldwin County, Alabama, to-wit:

The Northwest quarter of the Northwest quarter and the
North half of the Northeast quarter of the Northwest
quarter of Section six (6), Township one (1) South of
Range five (5) East, containing sixty acres more or
less;

that a copy of said contract is hereto attached, marked Exhibit "A"
and asked to be made a part hereof as though set out herein in full.

THIRD:

That the complainant accepted the terms of the said con-
tract and went into possession of the said land and has remained in
possession thereof until this time.

FOURTH:

That the complainant has fully complied with the terms
and conditions set out in said contract and paid to the respondents
all the money due thereunder.

FIFTH:

That upon the compliance of the conditions set out in said contract and the payment to the respondents of the amount due thereunder, the complainant demanded of the respondents a conveyance in accordance with the terms of the contract. Although such conveyance was demanded and has repeatedly since that time been demanded, the respondents have failed, neglected and refused and do now fail, neglect and refuse, to make conveyance to the complainant in accordance with the said contract.

SIXTH:

That in December, 1927, the respondents entered into an oral agreement with the complainant, whereby the complainant agreed to purchase, and the respondents agreed to sell, for and at the price of Two Thousand Dollars (\$2,000.00), the following described land in Baldwin County, Alabama, to-wit:

The Southwest quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East, containing forty acres more or less;

that said agreement was separate and distinct from the original contract in writing entered into between the complainant and respondents as herein set out in Paragraph "SECOND".

SEVENTH:

That the complainant accepted the terms of said oral agreement and the respondents delivered over to him the possession of said lands and he immediately went into the actual possession thereof and has remained in possession thereof until this time; that the respondents agreed and were to, upon the receipt of the said purchase price, to-wit, Two Thousand Dollars (\$2,000.00), convey a full and complete title to the said last described lands to the complainant.

EIGHTH:

That at the time the said oral agreement for the purchase of the said land was entered into it was agreed by and between the parties thereto, and made a part of said agreement, that the said

parties would sell to the State of Alabama gravel to be used for surfacing highway, which gravel was to be taken from the sixty acres of land hereinabove first described; that all monies were to be received by the respondents and by them credited to the account of the complainant in the purchase of said forty acres of land herein described.

NINTH:

That the respondents did, in accordance with the agreement, sell gravel to the State of Alabama and received pay therefor.

TENTH:

That the respondents have received from and/or to the credit complainant of the amount of the purchase price, to-wit, Two Thousand Dollars (\$2,000.00), in compliance with the terms of said oral agreement.

ELEVENTH:

That the complainant has fully complied with the terms and conditions of said oral agreement and demanded from the respondents a deed to said land, to-wit:

The Southwest quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East;

that although the complainant has demanded a compliance on the part of the respondents and the execution of said deed, the respondents have and do now refuse to execute their part of the agreement and deliver deed to the complainant.

TWELFTH:

That the complainant has at all times and does now stand ready, able and willing to comply with the terms and conditions of the written and oral contracts hereinabove set out.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your complainant prays that your Honor will by proper process make the said M. J. Thompson and Mrs. Sadie L. Thompson parties respondent to this Bill of Complaint, requiring them to plead, answer and demur to the same within the time and under the penalties prescribed by law and under the practice of this Honorable Court.

PRAYER FOR RELIEF.

Complainant further prays that upon a final hearing of this cause your Honor will enter an order and decree, requiring the said respondents, M. J. Thompson and Mrs. Sadie L. Thompson, to execute to complainant a sufficient conveyance of said property, to-wit:

The Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East, containing sixty acres more or less, in Baldwin County, Alabama.

Complainant further prays that your Honor will enter an order and decree requiring the respondents, M. J. Thompson and Mrs. Sadie L. Thompson, to execute to complainant a sufficient conveyance of the following property, to-wit:

The Southwest quarter of the Northwest quarter of Section six (6), Township one (1) South of Range five (5) East, containing forty acres more or less, in Baldwin County, Alabama.

Complainant further prays that your Honor will enter an order and decree against the respondents, M. J. Thompson and Mrs. Sadie L. Thompson, for such amount as to your Honor may seem meet and proper, payable to the complainant, as damages for the respondents' wrongful withholding the said property.

Complainant further prays that in the event he is in error in the relief prayed for, that your Honor will give and grant unto him such other, further, different or general relief as he may be in equity and good conscience entitled to receive. And as in duty bound he will ever pray.

David Chamberlain
Complainant.

Beebe & Hae
Solicitors for Complainant.

FOOT NOTE:

The respondents are required to answer each and every allegation contained in the foregoing Bill of Complaint in Paragraphs FIRST to TWELFTH inclusive, but not under oath, oath being hereby

expressly waived.

David Chambers
Complainant.

Beeler & Stone
Solicitors for Complainant.

STATE OF ALABAMA.

BALDWIN COUNTY.

I, David Chambless, complainant in the above styled cause,
have carefully read over and understand the allegations contained in
the foregoing Bill of Complaint and know that the facts therein al-
leged are true.

David Chambers

Sworn to and subscribed before
me, this 8th day of February,
1934.

Notary Public, Baldwin County,
Alabama.

EXHIBIT "A"

STATE OF ALABAMA,)
BALDWIN COUNTY.)

This agreement made and entered into this 5th., day of January, 1922, by and between M. J. Thompson and Sadie L. Thompson, hereinafter referred to as the parties of the first part and David Chambless, hereinafter referred to as the party of the second part, WITNESSETH:

That for and in consideration of the sum of Thirteen Hundred (\$1300.00) to be paid as hereinafter stated, the said parties of the first part hereby agrees to convey to the party of the second part, his heirs or assigns, the following described lands, when the said party of the second part has complied in full with the terms of this contract, said lands being described as follows:

The Northwest Quarter of Northwest Quarter and the North half of Northeast Quarter of Northwest Quarter of Section Six; Township One South, Range Five East, Baldwin County, Alabama.

The parties of the first part hereby agree to convey the above described property free from encumbrance, excepting a mortgage to the Federal Land Bank covering this property and the said party of the second part hereby assumes the payment of Five Hundred Dollars of the said mortgage to the Federal Land Bank. The said conveyance of the above described property to be made on the 1st., day of November, 1922, provided the terms of this contract has been complied with, in full.

For and in consideration of the conveyance of the property above described the said party of the second part hereby agrees to pay the sum of Five Hundred Thirty-six and 50/100 (\$536.50) cash, the receipt of which is hereby acknowledged and to pay Five Hundred Dollars of the mortgage due or executed to the Federal Land Bank by the parties of the first part together with the interest accruing on

the said sum of Five Hundred Dollars yearly on the due date of the said payments, and to pay the balance of Two Hundred Sixty-three and 50/100 (\$263.50) as evidenced by one promissory note of even date herewith executed to the parties of the first part by the party of the second part bearing interest at the rate of six percent per annum, said interest and note being payable on the first day of November, 1922.

The said party of the second part is to have and take possession of the said premises immediately and to do and perform all stipulations of this contract as specified herein and upon default in the payment or any provision or stipulation herein contained this contract at the option of the parties of the first part may be declared forfeited by handing a written notice to the party of the second part of said default and if not complied with within three days after service of said notice, then the said forfeiture shall be considered final and it is hereby declared final by the parties hereto in the event of death of the party of the second part, then the notice above mentioned may be served upon any of his heirs.

In the event of default in any of the provisions of this contract and the parties of the first part declare same forfeited the party of the second part hereby agree to surrender possession of same at once and any payment he may have made hereunder shall be retained by the parties of the first part as rent.

~~Executed in Duplicate this 5th., day of January, 1922.~~

Sadie L. Thompson
M. J. Thompson
David Chambless.

WITNESSES:
as to Mrs. Thompson
and Mr. Chambless.

Henry D. Moorer.
T. W. Richerson.
- - - - -

Witnesses as to
Mr. Thompson.

Geo. Kupfrian.
A. W. Hawkinson.

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambless, Deceased,

Complainant,

-vs-

M. J. THOMPSON and MRS. SADIE
L. THOMPSON,

Respondents.

IN THE CIRCUIT COURT--IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Now come the Respondents and for answer by way of Cross-
bill to the Complaint in this cause, say:-

FIRST:

That they admit that they are residents of Baldwin County,
Alabama, and over the age of twenty-one years.

SECOND:

That they admit that on January 5th, 1922, that they en-
tered into a Contract which was in writing to sell and convey to
David Chambless the real estate situated in Baldwin County, Alabama,
set out in Paragraph 2 of the Complaint, and that they admit that
a copy of said Contract is attached to the Bill of Complaint as Ex-
hibit "A" thereto.

THIRD:

That they admit Paragraph 3 of said Complaint; that is,
that David Chambless, at the time that said Contract was executed,
accepted the terms of said contract and went into the possession
of the lands described in Paragraph 2 of the Complaint, and remain-
ed in possession thereof up until the time of his death, which was
sometime in the year 1935.

FOURTH:

In answer to Paragraph 4 of the Bill of Complaint Re-
spondents deny that the said David Chambless, or the Administrator
of his Estate, has complied with the terms and conditions set out
in said Contract, in this, that the considerations therein mention-
ed to be paid to Respondents have never been paid, and that there
remains due thereon Seven Hundred Ten Dollars (\$710.00) as of
January 1st, 1924, with interest from that time, together with the

(page two)

taxes that Respondents have paid upon said lands described in Paragraph 2 of the Bill of Complaint ever since January 5th, 1922.

FIFTH:

In answer to Paragraph 5 of the Bill of Complaint Respondents say that the conditions of the contract mentioned in Paragraph 2 of the Bill of Complaint have never been complied with, and Respondents deny that David Chambless made a demand upon them for a conveyance of said lands to him; that they have never refused to convey said land for the reason that no demand was made on them to do so, and if a demand had been made they certainly would not have conveyed until they had received the agreed purchase price for the same.

SIXTH:

In answer to the Sixth Paragraph of the Bill of Complaint Respondents admit that Sadie L. Thompson, who was the wife of M. J. Thompson, entered into an oral agreement with David Chambless in December, 1927, to sell to him the property described in Paragraph Six; that the husband of Sadie L. Thompson, M. J. Thompson, was not present at the time, nor was there any writing entered into by any of the parties to this suit in regard to the purchase of said property mentioned in said Paragraph Six, but that it was the understanding between Sadie L. Thompson and David Chambless that, due to the fact that the said David Chambless had fallen down on his payments for the land mentioned in Paragraph 2, that they would enter into another contract whereby David Chambless was to pay to the said Sadie L. Thompson the sum of Twenty-five Hundred Dollars (\$2500.00) for the lands mentioned in Paragraph 2 and Paragraph 6, or, in other words, a new Contract was orally entered into in regard to both tracts of land mentioned in said Bill of Complaint.

SEVENTH:

In answer to Paragraph 7 of the Bill of Complaint, Respondents say that David Chambless accepted the terms of said oral agreement as set forth in Paragraph Sixth of this Answer, and that Sadie L. Thompson, the owner of said lands mentioned herein, de-

(page two)

Delivered the possession of the lands mentioned in Paragraph 6 to David Chambless, and that he went into the actual possession thereof and remained in such possession up until the time that he died; that Respondents have at all times been willing and ready to convey the property described in this proceedings to the said David Chambless, his heirs or assigns, upon the payment to them of the purchase money for the same.

EIGHTH:

In answer to the Eighth Paragraph of the Bill of Com-

plaint Respondents say that there was sold from the lands involved in this proceedings Four Hundred Ninety-six Dollars (\$496.00)

worth of gravel to the State of Alabama; that this money was paid to her, and she, Mrs. Sadie L. Thompson, turned over to David Chambless, One Hundred Thirty-five Dollars (\$135.00) in money, besides furnishing him with certain material for building a house on said premises and wire for fencing part of the same. Your Respondents further show that on, to-wit, February 2nd, 1932, after said gravel

had been sold, which was about the year 1928, and the money collected therefrom, that she and the said David Chambless met at the Office of Henry D. Moore in Bay Minette, Alabama, a practicing

Attorney at that time, submitted their differences to him, and that, after going over all of the debits and credits that each party

claimed, it was agreed by and between Sadie L. Thompson and David Chambless that David Chambless was due the said Sadie L. Thompson the sum of Two Thousand Dollars (\$2000.00) on the land contract;

that since said time no sum of money has been paid to Respondents by the said David Chambless or anyone else on the purchase price of said lands and upon the amount agreed upon.

NINTH:

In answer to the Ninth Paragraph Respondents say that

they have already answered this.

TENTH:

Respondents deny that they have received from David

(page four)

Chambless, or anyone else, the balance due Sadie L. Thompson on the purchase price of said lands, and deny Paragraph Ten in its entirety, and call for strict proof of the same.

ELEVENTH:

Respondents deny that David Chambless has complied with the terms and conditions of the oral agreement mentioned therein, and deny that David Chambless demanded from Respondents a Deed to the lands described in said Eleventh Paragraph, and deny that they have refused to execute a Deed, and state the facts to be that they are willing to execute a Deed to said property, but that they do not propose to do so until the purchase price of said lands is paid to the owner thereof, Sadie L. Thompson.

TWELFTH:

In answer to Paragraph Twelve of said Bill of Complaint Respondents deny the allegations contained therein and call for strict proof of the same.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises your Respondents pray that the foregoing answer will be taken as ~~answer~~ and Cross-Bill, and that Winfield S. Chambless, as Administrator of the Estate of David Chambless, Deceased, be made a party defendant to the same, and that process issue to him as such Administrator requiring him to plead, answer or demur to the same within the time and under the penalties as required by law.

PRAYER FOR RELIEF.

~~THE PREMISES CONSIDERED~~ your Respondents pray that upon the final hearing of this cause that your Honor will decree that there is a balance due Sadie L. Thompson upon the purchase price of the lands mentioned in this Cross-Bill and Answer, or referred to therein, and that the said Sadie L. Thompson is entitled to a vendor's lien thereon, and that upon the failure of the Administrator of the Estate of David Chambless, Deceased, to pay within such time as your Honor may see fit to allow, the balance ascertained

(page four)

(page five)

by your Honor to be due on said purchase price of said lands, that your Honor will then order that said lands be sold by the Register of this Court to satisfy the purchase money due thereon, together with the interest thereon, amount paid for taxes on the same since 1922, and the costs of this Court. Your Respondents pray for such other, further and different relief as in equity may seem just and meet, and your Respondents will ever pray.

Hyatt & Chason
Solicitors for Respondents.

FOOT NOTE:-

Winfield S. Chambless, as Administrator of the Estate of David Chambless, Deceased, is required to answer Paragraphs "First" to "Twelfth", inclusive, of the foregoing Cross-Bill, but answer under oath is hereby expressly waived.

Hyatt & Chason
Solicitors for Respondents.

WINFIELD S. CHAMBLESS,
As Administrator,

Complainant,

-VS-

M. J. THOMPSON ET AL,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

DECREE CONFIRMING PARTIAL REPORT OF REGISTER
ON REFERENCE.

This cause, coming on to be heard, is submitted for Decree on Partial Report of Register on Reference, and the said Report, having been considered by the Court, the Court is of the opinion that said Report should be, and is hereby, confirmed in all things;

It is, therefore, ORDERED, ADJUDGED AND DECREED that the Partial Report of Robert S. Duck, as Register of said Court, dated August 19th, 1936, be, and the same is hereby, confirmed;

~~It is further ORDERED, ADJUDGED AND DECREED~~ by the Court that the Complainant in the above styled cause pay to the said Respondents the sum of Seventy-five Dollars (\$75.00), as rent for the year 1936, on the Southwest quarter of Northwest Quarter of Section 6, Township 1 South of Range 5 East, Baldwin County, Alabama, on or before August 26th, 1936, or that the said Complainant execute Bond with sufficient sureties in the sum of One Hundred Fifty Dollars (\$150.00), payable to the said Respondents, conditioned to pay the said Respondents the sum of Seventy-five Dollars (\$75.00), as rent on the above described forty acre tract of land, on or before October 1st, 1936, which Bond must be executed, and approved by the Register of the Circuit Court of Baldwin County, Alabama, on or before August 26th, 1936, and if the said Complainants fail to pay the Respondents the sum of Seventy-five Dollars (\$75.00), or to furnish such Bond, with good and sufficient sureties, on or before the said August 26th, 1936, then let execution issue to the Sheriff of Baldwin County, Alabama, directing the said Sheriff to remove the Complainants from the above described land, and to place the said Respondents in possession of the same.

(page two)

Should the said Complainants pay the Respondents the sum of Seventy-five Dollars (\$75.00), on or before August 26th, 1956, or execute the Bond above referred to, then the said Complainants shall be entitled to possession of the said forty acre tract of land until January 1st, 1957, at which time the said Complainants shall turn over possession of said lands to the said Respondents, and, upon their failure to so turn over possession of said lands, then let execution issue to the Sheriff of Baldwin County, Alabama, directing him to remove Complainants from said tract of land and to place the Respondents in possession of same.

Dated this 20th day of August, 1956.

J. W. Hare
Judge.

DECREE CONFIRMING PARTIAL RE-
PORT OF REGISTER ON REFERENCE.

WINFIELD S. CHAMBLESS,
As Administrator,

Complainant,

-VS-

M. J. THOMPSON ET AL,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

Issued August 20th, 1936

R. R. R. R.

WINFIELD S. CHAMBLESS,
is Administrator,

Complainant,

-vs-

M. J. THOMPSON, SADIE L.
THOMPSON,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

TO THE HON. ROBERT S. DUCK, REGISTER IN CHANCERY IN AND
FOR SAID COURT:-

By Decree of Judge F. W. Hare, Judge of the Circuit Court
of Baldwin County, Alabama, in Equity, which Decree was rendered
on August 20th, 1936, in the above styled cause, it was ordered,
adjudged and decreed that the above named Complainant pay to the
above named Respondents the sum of Seventy-five Dollars (\$75.00),
as rent for the year 1936, on the forty acres of land described
in said Decree, which said sum must be paid to the Respondents on
or before August 26th, 1936, or the said Complainant was ordered
to execute a good and sufficient Bond payable to the Respondents
in the sum of One Hundred Fifty Dollars (\$150.00), which Bond
must be executed on or before August 26th, 1936, conditioned to
pay the said Respondents Seventy-five Dollars (\$75.00) as such
rent on or before October 1st, 1936.

It was further ordered, adjudged and decreed that if the
Complainant failed or refused to pay ^{the respondents} the said sum of Seventy-five
Dollars (\$75.00), on or before August 26th, 1936, or to execute
the Bond above referred to, on or before August 26th, 1936, that
the Complainant be removed from said land and that the Respondents
be placed in possession of same.

You advised me that the said sum of Seventy-five Dollars
(\$75.00) was paid over to you by Winfield S. Chambless, as such
rent, but that certain instructions had been given you by the at-
torney for Complainant requesting that this amount be held up by
you. We hereby demand that the said sum of Seventy-five Dollars
(\$75.00) be turned over to us, as Attorneys for the Respondents,
or to the Respondents themselves, immediately, or that you issue

(page two)

a writ directing the Sheriff to immediately remove the Complainant from said lands and place the Respondents in possession of same, this writ to be issued instanter if the said sum is not turned over to us or to the Respondents.

~~Dated this 27th day of August, 1856.~~

Hyland & Shanon
Solicitors for Respondents.

RECORDED
Duck
6-528

Petition to
Register

Filed Aug. 28, 1931
R. S. Duck, Reg.

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambless, Deceased,
Complainant,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

-vs-

IN EQUITY.

SADIE L. THOMPSON ET AL.,
Respondents.

TO WINFIELD S. CHAMBLESS, AS ADMINISTRATOR OF THE ESTATE OF DAVID
CHAMBLESS, DECEASED, OR MESSRS. BEEBE, HALL & BEEBE, HIS ATTORNEYS
OF RECORD:-

YOU ARE HEREBY NOTIFIED that the Respondents in the
above styled cause have taken an appeal to the Supreme Court of
Alabama from that certain judgment rendered by the Judge of the
Twenty-first Judicial Circuit on the 29th day of November, 1938,
in said cause, and Security for costs has been filed by said
Respondents and approved by the Register of said Court on May
25th, 1939.

W. H. L. Ransom
As Solicitors for Respondents.

RECORDED
8-31-B

NOTICE OF APPEAL.

WINFIELD S. CHAMBLESS, as
Administrator of the Estate
of David Chambliss, Deceased,
Complainant,

-VS-

SADIE L. THOMPSON ET AL.,
Respondents.

IN THE CIRCUIT COURT--IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

Filed May 29th, 1939

R.S. Duck
Register.
By Sadie Thompson
Deputy Register

Presented 6/1/39 by handing a copy of this writ to
subject in case of the firm of Buckle & Buckle.
Presenting the complainant in the case of
Winfield S. Chambliss - Admin - vs Sadie L. Thompson -
not. That Sheriff
By John H. Davis -

DAVID CHAMBLESS,

Complainant,

-vs-

M. J. THOMPSON and SADIE L.
THOMPSON,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Now comes the Complainant in the above styled cause,
and in accordance with authority given Winfield S. Chambless, as
Administrator of the Estate of David Chambless, Deceased, to re-
vive said cause in his name, as Administrator of said Estate, now
amends said Complaint by inserting Winfield S. Chambless, as Ad-
ministrator of the Estate of David Chambless, Deceased, Complainant.

Beule & Naege
Solicitors for Complainant.

AMENDMENT TO COMPLAINT.

DAVID CHAMBLESS,

complainant,

"-VS-"

SADIE L. THOMPSON ET AL,

respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed November 21st, 1935

R. L. Davis
Register.

9

WINFIELD S. CHAMBLESS,
As Administrator,

Complainant,

-vs-

M. J. THOMPSON ET AL,

Respondents.

IN THE CIRCUIT COURT--IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

TO THE HON. F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL CIRCUIT
OF ALABAMA:-

The Undersigned, Robert S. Duck, Register of the afore-
said Court, in pursuance of that certain order made by your Honor
on May 27th, 1936, referring to him, as Register, to state an ac-
count between the parties to the above styled cause, showing what
amount is due the Respondent, if anything, on the purchase price
of the sixty acres of land described as follows:-

Northwest quarter of Northwest Quarter and
North half of Northeast quarter of Northwest
Quarter of Section 6, Township 1 South of
Range 5 East, Baldwin County, Alabama;

and further directing said Register to ascertain whether or not
there is a growing crop on the forty acres of land described as
follows:-

Southwest Quarter of Northwest Quarter of Sec-
tion 6, Township 1 South of Range 5 East, Bald-
win County, Alabama;

and if it is ascertained that there is such a growing crop, said
Register was ordered to ascertain the reasonable rental value of
said forty acre tract for the current year, and said Register
respectfully begs leave to make the following partial report:-

That on, to-wit, June 24th, 1936, the said Winfield
S. Chambless and W. J. McMillan appeared as witnesses for the
Complainant, and Mrs. Sadie L. Thompson and Charles Lenoir Thomp-
son appeared as witnesses for the Respondents, and upon testi-
mony taken before Mary F. Green, acting as Commissioner, on said
date, which testimony has been reduced to writing, I am of the
opinion, and so find, that there is a growing crop on said forty
acre tract of land, and I further find that a reasonable rental

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re-rental

value for the year 1936 on the forty acre tract of land described as the Southwest quarter of Northwest quarter of Section 6, Township 1 South, Range 5 East, is Seventy-five Dollars (\$75.00).

That I have not yet determined whether the entire purchase price for the sixty acre tract has been paid, and have not yet stated an account between the parties showing what amount is due Respondents, if anything, on the purchase price of said sixty acre tract, and beg leave to make this, my partial report, reporting the matters I have determined to this time.

Respectfully submitted this 19th day of August, 1936.

R. D. Luck

Register.

Report of
Register

Issued Dec 14 1936
R. L. Seal
Reg

DAVID CHAMBLESS,

Complainant,

-vs-

M. J. THOMPSON and MRS.
SADIE L. THOMPSON,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

BRIEF AND ARGUMENT OF MRS. THOMPSON ON
EXCEPTIONS TO REGISTER'S REPORT.

In this case Mr. Chambless and Mrs. Thompson entered into a Contract on the 5th day of January, 1922, wherein Mrs. Thompson agreed to convey to Mr. Chambless the Northwest Quarter of Northwest Quarter and the North half of Northeast Quarter of Northwest Quarter of Section 6, Township 1 South of Range 5 East, Baldwin County, Alabama, on condition that Mr. Chambless would pay to her the sum of Thirteen Hundred Dollars (\$1300.00), on which sum he paid her Five Hundred Thirty-six & 50/100 Dollars (\$536.50) in cash, and agreed to pay Five Hundred Dollars (\$500.00) of the Mortgage that had been executed to the Federal Land Bank of New Orleans by Mrs. Thompson and her husband on the aforesaid lands, together with the interest thereon, and also to pay the further sum of Two Hundred Sixty-three & 50/100 Dollars (\$263.50), which was to be paid on the 1st day of November, 1922, with 6% interest; that said Contract also stipulated that in case of the failure of the said Chambless to meet and pay the aforesaid consideration that Mrs. Thompson could then, in that event, declare said contract of no force and effect, and that the moneys that had been paid would be treated as rent. We respectfully contend that such a condition

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would be according to law, and we further contend that on or about February 25th, 1933, that Mrs. Thompson duly notified Mr. David Chambless that he had defaulted in the payment of the purchase price of said lands as stipulated in said Contract, and that she had elected to declare the Contract forfeited, which we contend she was authorized to do under the circumstances in the case. Then, in addition to this notice, Mrs. Thompson commenced her action in ejectment against Mr. Chambless in the Circuit Court of Baldwin County, Alabama, for the recovery of the aforesaid lands, prior to the filing of the Bill of Complaint in this cause by Mr. Chambless. This action in ejectment on Motion of Mr. Chambless was transferred to the Equity Side of the Docket, in which Court Mr. Chambless filed the present Bill at or about the time that said cause was moved to said Equity Court. The filing of the action in ejectment was also additional notice to Mr. Chambless that she had elected to declare said Contract of no force and effect on account of Mr. Chambless' failure to make the payments on the land as he had agreed to do.

For the purpose of showing to your Honor that Mr. Chambless was in arrears and had failed to carry out his part of the contract, and that Mrs. Thompson was authorized under the terms of the Contract to declare the Contract forfeited, we call the Court's attention to the fact that the only evidence of any force or effect that any payments were made by Mr. Chambless to Mrs. Thompson is disclosed in the testimony of Mrs. Thompson and Charles Lenoir Thompson. The record discloses that the said Chambless has never paid any sum of money to the Federal Land Bank of

(page two)

New Orleans on said Mortgage indebtedness, or to Mrs. Thompson to be applied thereon, and that there has been an entire breach of his Contract with her in this respect, and this in itself, under the terms of the agreement, permitted her to terminate the same.

The record further shows that the first payment as made by Mr. Chambless to Mrs. Thompson, according to the evidence, was in the year 1925. The burden of proof is on the Complainant to establish the date of this payment, and we take it that the presumption would be, his having failed to make this proof as to the date of this payment, that it was on the last day of the year, 1925; however, we have calculated it as will appear later in this Brief, the interest on the principal due on the Note, together with the interest thereon up until the first of the year, 1925, and then applied the credit on said Note and interest. The next payment that was made on said Note by Mr. Chambless was for corn, amounting to Fifty-five & 68/100 Dollars (\$55.68), which was delivered to Mrs. Thompson in the year 1930. The law would presume that it was from the crop raised for that year and delivery made in the fall, but to be absolutely in the clear about the matter we have calculated the interest on the balance due on the Note up until the 1st day of January, 1930, as will hereinafter appear, and deducted the said sum for said corn from the balance then due. The next payment which appears to have been made on said Note was the delivery of an old mowing machine to Mrs. Thompson, which was not worth over the sum of Twenty-five Dollars (\$25.00), according to the evidence, but we have credited this as a payment as hereinafter appears at and for

(page four)

the sum of Sixty-five Dollars (\$65.00). This mowing machine was delivered in the year 1930, and we have calculated the interest on the balance due up until January 1st, 1930, and have given Chambless credit for the same on said Note, as will hereinafter appear. The next and last item paid by Mr. Chambless to Mrs. Thompson was the sum of Fifteen Dollars (\$15.00) paid by Chambless to Henry D. Moorner. This payment was made February 2nd, 1932. We have calculated the interest on the balance due on the Note up to this date, and have deducted the \$15.00 from the same as will hereinafter appear. The record also discloses that Mrs. Thompson has paid the taxes on the aforesaid land for fourteen years at the rate of Eight & 82/100 Dollars (\$8.82) per year, which Mrs. Thompson would be entitled to, together with the interest thereon.

By way of recapitulation we find Note for Two Hundred Sixty-three & 50/100 Dollars (\$263.50), with interest at 6% from January, 1922, interest on this Note for three years, up until time of first payment would amount to \$47.43, which, added to the principal of \$263.50, would make Chambless due on this Note at the time first payment was made the sum of \$310.93. Deducting the \$40.00 payment made by Chambless in January, 1925, there would remain a balance of \$270.93, principal and interest, due on said Note. No further payments were made until 1930, and adding interest at 6% on \$270.93 from January, 1925, until January, 1930, which said interest would amount to \$81.25, would make a total principal and interest due on said Note as of January 1st, 1930, of \$352.18. In 1930 Chambless made payments of \$55.68 and \$65.00

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(page five)

or a total of \$120.68. Deducting this amount from the sum of \$352.18, would leave a balance of principal and interest due on said Note of \$232.18. The next payment of \$15.00 was paid in February, 1932, and adding two years' interest on the sum of \$232.18 as due on said Note as of January, 1930, which said interest would amount to \$27.86, would make a total principal and interest as of January, 1932, of \$260.04. Deducting the \$15.00 payment then made there would remain due on said Note the sum of \$245.04. There having been no further payment, interest would accrue on this amount at the rate of 6% up to the date hereof, or six years, the total amount of said interest being \$94.20. This amount, added to the amount due as of January, 1932, would make a total now due on said Note of \$339.24. Chambless agreed to assume the sum of Five Hundred Dollars (\$500.00), with interest at the rate of 5%, which interest since 1922 would amount to \$350.00, making a total of \$850.00 interest plus the amount he agreed to assume. Adding the \$850.00 to the \$339.24 due on said Note would make a total of Eleven Hundred Eighty-nine & 24/100 Dollars (\$1189.24). Adding to this the taxes paid by Mrs. Thompson, in the sum of \$121.48, there would be a total due of Thirteen Hundred Ten & 72/100 Dollars (\$1310.72). We have not computed the interest she would be entitled to on the taxes paid by her over the fourteen year period of time.

In 1927 Chambless, being unable to comply with his contract relative to the aforesaid land, entered into a verbal agreement with Mrs. Thompson to purchase an additional forty acres of land, which is described as follows:-

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(page six)

Southwest Quarter of Northwest Quarter of
Section 6, Township 1 South of Range 5 East,
Baldwin County, Alabama,

for which he was to pay her Two Thousand Dollars (\$2,000.00), the plan being that Chambless was to secure a loan on the 100 acres of land for the purpose of procuring money to pay Mrs. Thompson for the balance due on the sixty acres of land and for the purchase money of the last mentioned forty acres of land, and, evidently, for this purpose, Chambless made some improvements on the land. The evidence is not clear as to whether these improvements were made on the first land that he contracted to buy or whether on the last mentioned forty acres of land, and the evidence is silent as to the extent of these improvements; that is, as to the value. In this last mentioned deal; that is, the verbal contract, which, of course, was invalid on account of the fact that the evidence shows that Mrs. Thompson had a living husband, and it would have been necessary for him to join in the conveyance or agreement, as the statutes provide, and as your Honor is familiar with by decision of the Supreme Court to the effect that such a Contract is invalid, we see no necessity of citing any authority, the statute being sufficient; however, under this arrangement Mr. Chambless took charge of the property; that is, the last mentioned forty acres of land, on which there was twenty acres of land in cultivation, and sixty-five or seventy growing and bearing pecan trees of the papershell variety, and had the use of same up until a decree of this Court, the evidence being that the rental value of said property was around One Hundred Seventy-five Dollars (\$175.00)

(page six)

a year. Chambless, coming into this Court and offering to do equity, on its maxim should come with clean hands. If he is just going to throw the property back on us and claim compensation for repairs, it appears to us that it would be most just and equitable that he should be charged with the rents, which, over a period of seven years, would amount to Twelve Hundred and Twenty-five Dollars (\$1225.00). On this amount we have received the sum of Eighty-five Dollars (\$85.00) from one Red Bryars, who testified that he had some kind of an understanding with Mr. Chambless in which he was to purchase the property; that is, the last mentioned forty acres of land, from Chambless, at the sum of Two Thousand Dollars (\$2000.00), and that he paid to Mrs. Thompson in 1930 sums at different times during that year, aggregating \$85.00.

The only other item that we have not discussed is the item of Four Hundred Ninety-six Dollars (\$496.00) which came to Mrs. Thompson from gravel obtained from the sixty acres of land; that is, the first mentioned land in this Brief. Mrs. Thompson, together with Charles Lenoir Thompson, testified that this money was turned over to Mr. Chambless and that he used the same for the purpose of paying taxes on other property, and a portion of the same, or maybe all of the same, in making improvements on these lands, but that would not amount to the rental value, and the use and benefits that he obtained from the forty acres of land which he verbally agreed to purchase from Mrs. Thompson, and we most respectfully contend that this item flowing from said gravel should be offset against the use and benefits flowing to Mr. Chambless from said forty acres of land for the period of more than seven

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(page eight)

years. It wouldn't be right for Mr. Chambless to have the benefit of those lands and charge us back with the improvements thereon, and especially so in this Equity Court where he is the actor and is required under its rules to do equity.

Respectfully submitted,

Hybart & Shason

Solicitors for Respondents.

*Copy handed to Beebe, Hall & Beebe
as Solicitors for Plaintiffs This 2nd Day
7 Feb - 1938*

Hybart & Shason

For Chamberlain
of sum see each



Exhibit 1
M. S. G. Commission

INSURED
BANK CHECK

No.

2717 1928

PAY TO THE ORDER OF

W. M. Curney, Treas. Co.

\$ 166.05

One Hundred Sixty Six & 05/100

DOLLARS

TO THE FIRST NATIONAL BANK
OF MOBILE

6

Wm M Thompson

61-26

MOBILE, ALA.

Insured against fraudulent alteration. Protected by The William J. Burns Int. Detective Agency, Inc.
BANKERS SUPPLY CO. CHS.

R. T. 6
MAIL

INTERNATIONAL BANK
OF AMERICA
Prior to 1900, the bank was
known as the
W. M. CARRUTHERS COMPANY

307-C

Handwritten:
To the
Hon. Sec. of the
Treasury
Washington, D.C.
1912

son, by the use of her sales ability, persuaded the old gentleman to purchase, by an illegal (oral) contract, an additional forty acres, at the exorbitant price of Two Thousand (\$2,000.00) Dollars, having just recently sold the adjoining sixty acres at Thirteen Hundred (\$1300.00) Dollars. Mrs. Thompson has received much more than the Thirteen Hundred (\$1300.00) Dollars originally agreed to have been paid.

We wish to make our position perfectly clear, and to state frankly to the Court, that under the evidence and pleadings in this case, the terms of the original, or written, contract have been fully complied with, and the Complainant is entitled to the relief as to the sixty acre tract of land. The Complainant has not complied with the terms of the second, or oral, contract, and is not entitled to the relief prayed for as against this second transaction, or the forty acres. It would be most unusual to allow the Respondents, Mrs. Thompson and her son, Mr. Charles Lenoir Thompson, Mr. Chambless now being dead, to come into Court and set up such an unusual, and you might say, impossible set of facts, in order to rob the Complainant, who holds through Mr. Chambless, of that which he is legally and justly

entitled to have.

We respectfully submit that in view of all the pleadings, and the testimony of the witnesses, without discussing it in detail, as we have so often been advised by the Court that he preferred to sit down and read it himself, that a proper decree to be entered in this case ^{would} be that the Respondents, M. J. Thompson and Sadie L. Thompson, convey to the Complainant the land described in the original written contract - that is, the Northwest quarter of the Northwest quarter and the North half of the Northeast quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East, and that the Complainant is not entitled to the relief prayed for as against the Southwest quarter of the Northwest quarter of Section 6, Township 1 South of Range 5 East.

Respectfully submitted,

BEEBE & HALL,

By: 
Solicitors for Complainant.