

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

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon Mrs. Victoria Palatinus Reiner

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Joseph Polyak

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

against said Mrs. Victoria Palatinus Reiner

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

WITNESS, Robert S. Duck, Register of said Circuit Court, this 10th day of March 1937

Robert S Duck Register

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

JOSEPH POLYAK,  
Complainant,

vs.

Mrs. VICTORIA PALATINUS REINER,  
Respondent.

Equity No. \_\_\_\_\_  
CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA,  
IN EQUITY.

BILL OF COMPLAINT

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

Comes Now your Complainant, Joseph Polyak, and pre-  
sents this, his Bill of Complaint, against Mrs. Victoria Pala-  
tinus Reiner, respectfully showing unto your Honor as follows:

First

That he is a resident of the city of St. Louis, in  
the State of Missouri, and over the age of twenty-one years.

Second

That the Respondent, Mrs. Victoria Palatinus Reiner,  
is a resident near Elberta, in the County of Baldwin, State of  
Alabama, and over the age of twenty-one years.

Third

That heretofore on, to-wit: the 1st day of November,  
1916, your Complainant became the owner of the following de-  
scribed lands situate in Baldwin County, Alabama, viz.:

The West half ( $W\frac{1}{2}$ ) of the Southwest  
quarter ( $SW\frac{1}{4}$ ) of the Southwest quarter ( $SW\frac{1}{4}$ )  
of Section Twelve (12), Township Eight South  
(T8S), Range five East (R5E) of St. Stephens  
Meridian, in Baldwin County, Alabama, con-  
taining twenty acres, more or less,

by virtue of a Warranty Deed from Baldwin County Colonization  
Company to Joseph Polyak, which said instrument is recorded in  
the office of the Judge of Probate of Baldwin County, Alabama,  
in Deed Book 25 N. S., page 348.

Fourth

That heretofore on, to-wit: the 1st day of November,  
1916, one Joseph Palatinus and the Respondent, who was then

(turn)

(page two)

Victoria Palatinus, became the owners, as tenants in common, of the following described lands situate in Baldwin County, Alabama, to-wit:

The East half ( $E\frac{1}{2}$ ) of the Southwest quarter ( $SW\frac{1}{4}$ ) of the Southwest quarter ( $SW\frac{1}{4}$ ) of Section Twelve (12), Township Eight South (T8S), Range Five East (R5E) of St. Stephens Meridian, in Baldwin County, Alabama, 20 acres,

by virtue of a Warranty Deed from Baldwin County Colonization Company to Joseph Palatinus and Victoria Palatinus, which said instrument is recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 25 N. S., pages 347-348.

Fifth

That the said two tracts of land hereinbefore described in paragraphs Third and Fourth are contiguous to and adjoin each other, and together form a forty acre tract of land in the same section.

Sixth

That heretofore on, to-wit: the 7th day of March, 1930, the said Joseph Palatinus died testate in this County; that the Last Will and Testament of the said Joseph Palatinus, deceased, was presented for Probate on, to-wit: the 27th day of March, 1930, by the Respondent herein, Mrs. Victoria Palatinus, now Mrs. Victoria Palatinus Reiner; that the said Will of the said Joseph Palatinus was admitted to Probate on, to-wit: the 25th day of April, 1930, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Book "C" of Wills, at pages 493 and 494.

Seventh

That, by the terms of his said Will, the said Joseph Palatinus did devise and bequeath all of his property, both real and personal, to the Respondent herein, Mrs. Victoria Palatinus, now Mrs. Victoria Palatinus Reiner.

(turn)

That, by virtue of said devise, the Respondent herein did then and there become the owner of the interest of the said Joseph Palatinus, deceased, in and to the property described in paragraph Fourth of this Bill of Complaint.

Eighth

That the property hereinbefore described in paragraph Third as having been conveyed to your Complainant is contiguous to a public road which lies along the West side thereof.

Ninth

That the property hereinbefore described in paragraph Fourth as having been conveyed to Joseph Palatinus and the Respondent, Mrs. Victoria Palatinus, now Mrs. Victoria Palatinus Reiner, and by the said Joseph Palatinus devised to the said Respondent, is not contiguous to a public road; and that, by reason of such fact, the said Respondent was unable to find a purchaser who would buy the property described in paragraph Fourth unless a way of ingress and egress were provided.

Tenth

That on or about, to-wit: the 23rd day of July, 1930, the Respondent expressed to your Complainant a desire to enter into an arrangement or agreement whereby the property belonging to the Respondent would have a convenient mode of ingress and egress over and across the hereinbefore described lands of the said Complainant; that, thereupon, and in order to effectuate the said desire of the Respondent, your Complainant expressed himself as willing to enter into an agreement whereby the two said parcels of property should and would be sold together to the same purchaser, and that neither parcel would be sold unless the other were sold to the same purchaser and at the same time; that the said proposed agreement was entirely for the benefit of the said Respondent, the said Complainant deriving no benefit whatever therefrom; that the said proposal

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was, therefore, without adequate consideration moving from the Respondent to the Complainant; that your Complainant's willingness to enter into such an agreement was merely for the purpose of enabling the Respondent to sell her said property without difficulty; and that, because of said lack of consideration, any action that was thenceforth taken by the Respondent and your Complainant on the said proposal was null, void, and of no consequence.

Eleventh

That your Complainant is of German birth; that he speaks very broken English; and that he finds the English language very hard to understand; and that he has very great difficulty in understanding the methods of dealing with land titles in this country and State.

Twelfth

That on, to-wit: the 23rd day of July, 1930, your Complainant, together with his wife, Mrs. Freida Polyak, and the Respondent, Mrs. Victoria Palatinus, now Mrs. Victoria Palatinus Reiner, went to the Elberta State Bank, a banking house located at Elberta, in Baldwin County, Alabama; that at such time and place, your Complainant and the said Respondent consulted with one L. Lindoerfer, and with one Alfred M. Neumann, officials in said banking house, regarding the drafting of instruments to put into effect the ~~the~~ proposed agreement heretofore mentioned in paragraph Tenth of this Bill of Complaint; that the said L. Lindoerfer and the said Alfred M. Neumann did then and there represent to and assure the said Complainant and the said Respondent that the said L. Lindoerfer and the said Alfred M. Neumann could and would draft such an instrument or instruments embodying the terms of the proposed agreement as outlined to them, and containing the provisions heretofore mentioned in paragraph Tenth of this Bill of Complaint.

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(page five)

Thirteenth

That on, to-wit: the 23rd day of July, 1930, the said L. Lindoerfer and the said Alfred M. Neumann did draft and present to your Complainant and to the Respondent two papers for the Complainant and the Respondent to sign; that the said L. Lindoerfer and the said Alfred M. Neumann did then and there represent unto the said Complainant and his wife, the said Freida Polyak, that the said papers embodied the agreement which the Complainant and Respondent had requested the said L. Lindoerfer and the said Alfred M. Neumann to draft into a written instrument or instruments; that the said representations made to your Complainant and to the said wife of your Complainant were untrue, false, and fraudulent; that the said representations made to your Complainant and to the said wife of your Complainant were made for the purpose of mis-leading your Complainant to his injury, and for the purpose of mis-leading the said wife of your Complainant to her injury.

Fourteenth

That your Complainant, being not versed in the reading of English, did not read said instruments, which were presented to him for his signature, but wholly relied on the statements and representations of the said L. Lindoerfer and the said Alfred M. Neumann, without knowing, and without having reason to suspect or to believe that the said statements and representations were false, untrue, and fraudulent, as they, in fact, were; that the said wife of your Complaint, Mrs. Freida Polyak, being not versed in the reading of English, did not read the said instruments, which were presented to her for her signature, but wholly relied on the statements and representations of the said L. Lindoerfer and of the said Alfred M. Neumann,

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(page six)

without knowing, and without having reason to suspect or to believe that the said statements and representations were false, untrue, and fraudulent, as they, in fact, were; and that the said Complainant and his said wife, under such circumstances, and relying as alleged, did then and there sign their names and acknowledge the signature of their names to one of the instruments that was then and there presented to them.

Fifteenth

That the Complainant and his said wife, at that time, ~~was~~ of the belief that he and she had entered into an agreement as to a right of way over the lands of the Complainant, and as to the joint sale of the two parcels of land, as alleged in paragraph Tenth of this Bill of Complaint; that the Complainant did not learn until some time later, to-wit: the 15th day of August, 1933, that the instrument which he and his said wife had signed at such time and place was not such an agreement as he and she had supposed and believed, but that the said instrument which they had been induced to sign was *an* entirely different paper from that which they had intended to sign; that the paper which they had signed was a paper having an entirely different effect from that intended; that, instead of said instrument's being a right of way agreement, or an agreement for the joint sale of the two parcels of property, the said instrument which your Complainant and his said wife were induced to sign was in fact a Warranty Deed granting to the Respondent, Mrs. Victoria Palatinus, now Mrs. Victoria Palatinus Reiner, an undivided one-half interest in and to the aforementioned lands described in paragraph Third of this Bill of Complaint; that the Complainant thereupon also discovered that the other paper or instrument, which was not signed by Complainant nor his wife, but which was signed as follows, to-wit: "Mrs. Victoria Palatinus,

(turn)

(page seven)

administratrix of the estate of Joseph Palatinus, deceased", was a Warranty Deed from the said Mrs. Victoria Palatinus, signed as aforesaid, to your Complainant, granting to your Complaint an undivided one-half interest in and to the aforementioned and described lands as set forth in paragraph Fourth of this Bill of Complaint.

Sixteenth

That your Complainant has never received nor taken delivery of the said instrument in the form of a Warranty Deed from "Mrs. Victoria Palatinus, administratrix of the estate of Joseph Palatinus, deceased"; that your Complainant does not know and has no means of ascertaining the whereabouts of the said instrument; that the Complainant has made diligent efforts to obtain said instrument; that he has failed to locate the said instrument; that he alleges on information and belief that the said instrument is in the possession of the said Respondent; that if the said instrument is not in the possession of the said Respondent, your Complainant then believes the said instrument to be in the possession of the said L. Lindoerfer or the said Alfred M. Neumann, or in the possession of Elberta State Bank.

Seventeenth

That the said instrument from Joseph Polyak and Freida Polyak, his wife, to Mrs. Victoria Palatinus, purporting to convey an undivided one-half interest in and to the lands described in paragraph Third of this Bill of Complaint, was given without consideration; that the same is therefore void.

Eighteenth

That the said instrument from "Mrs. Victoria Palatinus, administratrix of the estate of Joseph Palatinus, deceased", purporting to convey <sup>to Joseph Polyak</sup> an undivided one-half interest in and to the lands described in paragraph Fourth of this Bill of Complaint,

(turn)



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on the West half of the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama, a dwelling house and other buildings; that, although the records in the office of the Judge of Probate of Baldwin County, Alabama, show an apparent one-half undivided interest in the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama, as belonging to your Complainant, your Complainant, by virtue of the buildings and improvements erected and made by him on the West half of the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama, actually and in fact has an interest, if he be adjudged and decreed a tenant in common, which is greatly in excess of a one-half interest; that, if the facts are such as to make him a tenant in common, your Complainant's interest is, at least, a 3/4 undivided interest.

Twenty-fourth

That the East half of the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama, has no buildings nor improvements of any kind or character thereon, but is merely an open field; that, therefore, if the facts are such as to make him a tenant in common of the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama, the Respondent owns only an undivided one-fourth interest in and to said property.

Twenty-fifth

That the said property can be equitably divided between the parties by allotting to Complainant and Respondent the lots of land as to which each originally was owner before the execution of the instruments hereinabove referred to, by

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(page ten)

decreeing to the Complainant the West half of the Southwest quarter of the Southwest quarter, of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama; and by decreeing to the Respondent the (E $\frac{1}{2}$ ) East half of the Southwest quarter of the Southwest quarter of Section 12, Township 8 South, Range 5 East, in Baldwin County, Alabama.

Twenty-sixth

Your Complainant submits himself to the jurisdiction of the Court to abide by its decrees, and offers to do equity in the premises.

PRAYER FOR PROCESS

WHEREFORE, your Complainant prays that Your Honor will take jurisdiction of this matter and cause summons or such other proceedings or process as may be required by law to make the above-named Mrs. VICTORIA PALATINUS REINER, of Elberta, in Baldwin County, Alabama, party Respondent to this Bill of Complaint.

PRAYER FOR RELIEF

Your Complainant further humbly prays that the Honorable Court will make and enter a decree cancelling the said instruments by which your Complainant and the Respondent apparently conveyed a half interest in their respective properties to each other, and setting and restoring the parties to the status at which they stood prior to the execution of the said instruments.

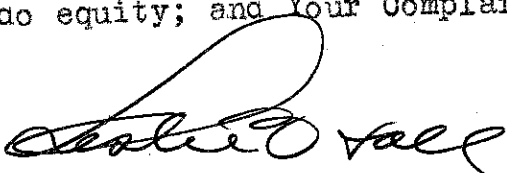
Your Complainant further humbly prays that if he has not asked for the proper relief, the premises considered, the Honorable Court will make and enter a decree ordering the Partition and Division of said property into parts, representing the shares of the parties as aforesaid.

Your Complainant further humbly prays that <sup>if</sup> he has not asked for the proper relief, the premises considered, the

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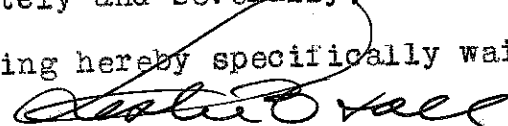
Honorable Court will make and enter a decree ordering the sale of the said property for Division of the proceeds between the parties hereto, according to their respective shares, as aforesaid.

Your Complainant further humbly prays that if he has not asked for the proper relief, the premises considered, the Honorable Court will make and enter such orders, judgments, or decrees as to Your Honor may seem meet and just and right, according to the principles of Equity, in the premises, Your Complainant hereby submitting himself to the jurisdiction of the Court and offering to do equity; and Your Complainant will ever pray.

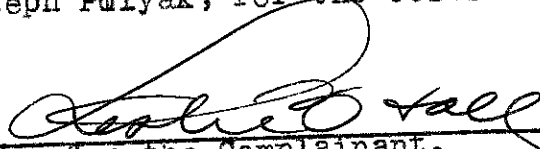
  
\_\_\_\_\_  
Solicitor for the Complainant.

FOOTNOTE

The Respondent, Mrs. Victoria Palatinus Reiner, is required to answer Paragraphs First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-first, Twenty-Second, Twenty-third, Twenty-fourth, Twenty-fifth, and each and every allegation thereof, separately and severally, but not under oath, Answer under oath being hereby specifically waived.


  
\_\_\_\_\_  
Solicitor for the Complainant.

I hereby acknowledge myself security, for the non-resident Complainant, Joseph Palyak, for the costs in this case.

  
\_\_\_\_\_  
Solicitor for the Complainant.

which can be based, by this Court, a decree or order of sale for distribution of the proceeds thereof.

11. The Complainant has not in his bill stated such a case as entitles him in a Court of equity to any discovery or relief touching the matters in the said bill.

  
Solicitor for Respondent.

JOSEPH POLYAK,

Complainant,

VS.

MRS. VICTORIA PALATINUS REINER,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. \_\_\_\_.

DEMURRER TO ORIGINAL BILL.

Now comes the Respondent, Victoria Palatinus Reiner, and demurs to the Bill of Complaint filed herein and sets down and assigns, separately and severally to the said Bill of Complaint, the following grounds, namely:

1. There is no equity in the bill.
2. It appears by the said bill that the same improperly invites distinct matters and causes, so that the bill is altogether multifarious.
3. The allegations of the bill are fatally vague and indefinite.
4. The allegations of the bill are vague, indefinite and uncertain and do not sufficiently inform the respondent of the issues she is called upon to meet.
5. The allegations of fraud and misrepresentation as contained in said bill, are conclusions of the pleader.
6. No facts are alleged in said bill to connect or charge the respondent with any fraud or misrepresentation.
7. The bill affirmatively discloses and shows that third parties in no way or manner connected with the respondent, practiced the alleged fraud or misrepresentation on complainant.
8. Sufficient facts are not alleged to show that the deeds described in said bill are void.
9. Sufficient facts are not alleged in said bill upon which can be based a decree of partition in specie of the property described in said bill.
10. Sufficient facts are not alleged in said bill upon

CHANCERY EXECUTION

BILL OF COSTS

No. 305

Joseph Peelyak

Vs.

Mrs. Esting Palatka Plaintiff  
Reiner Defendant

FEES OF REGISTER		Dollars	Cents		
Filing each bill and other papers	\$ 10			Brought Forward	2 50
Issuing each subpoena	50		40	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%.	
Issuing each copy thereof	40		50	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Entering each return thereof	15		00	Each notice sent by mail to creditor	15
For each order of publication	1 00			Filing, receipting for and docketing each claim, etc.	25
Issuing writ of injunction	1 50			For all entries on subpoena docket, etc.	50
For each copy thereof	50			For all entries on commission docket, etc.	50
Entering each return thereof	15			Making final record, per 100 words	15
Issuing Writ of Attachment	1 00			Certified copy of decree	1 00
Entering each return thereof	15			Report of divorce to State Health Office	50
Docketing each case	1 00		100	(Acts 1915)	
Entering each appearance	25			Total Fees of Register	6 50
Issuing each decree pro confesso on per. ser.	1 00			FEES OF SHERIFF	
Issuing each decree pro confesso on publication	1 00			Serving and returning subpoena on deft.	\$1 50
Each order appointing guardian	1 00			Serving and returning subpoena for witness	65
Any other order by Register	50			Levying attachment	3 00
Issuing commission to take testimony	50			Entering and returning same	25
Receiving and filing	10			Selling property attached	
Endorsing each package	10			Impaneling Jury	75
Entering order submitting cause	50			Executing writ of possession	2 50
Entering any other order of court	25			Collecting execution for costs	1 50
Noting all testimony	50			Serving and returning sci. fa., each	65
Abstract of cause, etc.	1 00			Serving and returning notice	65
Entering each decree	75			Serving and returning writ of injunction	1 50
For every 100 words over 500	15			Serving and returning writ of exeat.	1 50
Taking account, etc.	3 00			Taking and approving bonds, each	75
Taking testimony, etc.	15			Collecting money on execution	
Each report, 500 words or less	2 50			Making deed	2 50
For every 100 words over 500	15			Serving and returning application, etc.	1 00
Amount claimed less than \$500, etc.	2 00			Serving attachment, contempt of court	1 50
Issuing each subpoena	25			Total Fees of Sheriff	
Witness certificate, each	25			RECAPITULATION	
Issuing execution, each	75			Register's Fees	6 30
Entering each return	15			Sheriff's Fees	3 00
Taking and approving bond, each	1 00			Commissioner's Fees	
Making copy of bill, etc.	15			Solicitor's Fees	
Each notice not otherwise provided for	50			Witness Fees	
Each certificate or affidavit, with seal	50			Guardian Ad Litem	
Each certificate or affidavit, no seal	25			Printer's Fees	
Hearing and passing on application, etc.	3 00			Trial Tax	3 00
Each settlement with receiver, etc.	3 00			Recording Decree in Probate Court	
Exam'ing each voucher of Receiver, etc.	10			Total	13 80
Examining each answer, etc.	3 00				
Recording resignation, etc.	75				
Entering each cert. 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, 1½ per ct.; all over \$1,000, and not exceeding \$20,000, 1 per ct.; all over \$20,000, ¼ of 1 per ct.					
Sub Total Carried Forward					

The State of Alabama, Baldwin County, No. Sept Term, 1941

To Any Sheriff of the State of Alabama—GREETINGS: You are hereby commanded, That of the goods and chattels, lands and tenements of Joseph Peelyak Defendant... you cause to be made the sum of Twelve and 30/100 Dollars, which Case Insured Plaintiff... recovered of Case Insured on the 30 day of Sept 1941 by the judgment of our Circuit Court, held for the county of Baldwin, besides the sum of 12 30 Dollars, costs of suit, and have the same to render to the said Peelyak and make return of this Writ and the execution thereof, according to law. Interest from 25th day of Aug 1941 to date of collection. Witness my hand, this 25th day of Aug 1941, Register.

*Sheet*  
RECORDED  
7-52

Serve on Mrs. Victoria Palatinus  
**Circuit Court of Baldwin County**  
IN EQUITY

Reiner  
**THE STATE OF ALABAMA,**  
BALDWIN COUNTY

No. 308

Received in office this \_\_\_\_\_

day of \_\_\_\_\_, 193\_\_\_\_\_

**S U M M O N S**

JOSEPH FOIYAK,

SHERIFF

Complainant,

Executed this 16<sup>th</sup> day of \_\_\_\_\_

March 1937

by leaving a copy of the within Summons with

*Mrs Victoria Palatinus Reiner*

vs.

MRS. VICTORIA PALATINUS

Defendant

REINER,

*Mrs. H. W. Reiner*

Sheriff

Respondent.

By *John W. Deane*  
Deputy Sheriff

LESLIE HALL,

Solicitor for Complainant

