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BILL OF COMPLAINT

MARY ARD AND BOSE ARD,

Complainants,

VS

LAND "COMMENCING AT THE SOUTHEAST
 CORNER OF THE SOUTHEAST QUARTER OF
 SECTION THIRTY, TOWNSHIP FIVE SOUTH
 OF RANGE FOUR EAST: THENCE RUNNING
 NORTH SIXTY FOUR RODS: THENCE WEST
 EIGHTY RODS, MORE OR LESS TO QUARTER
 SECTION LINE: THENCE SOUTH SIXTY
 FOUR RODS: THENCE EAST ON THE SECTION
 LINE BETWEEN SECTIONS THIRTY AND
 THIRTY ONE, TO PLACE OF BEGINNING
 ALL IN SECTION THIRTY, TOWNSHIP FIVE
 SOUTH OF RANGE FOUR EAST: ALSO THAT
 OTHER PIECE OR PARCEL OF LAND DESCRI-
 BED AS FOLLOWS, TO-WIT: COMMENCING
 AT THE SOUTHWEST CORNER OF THE SOUTH
 EAST QUARTER OF SECTION THIRTY IN
 TOWNSHIP FIVE SOUTH OF RANGE FOUR
 EAST: THENCE RUNNING EAST EIGHTY
 RODS TO THE QUARTER SECTION LINE IN
 SAID SECTION: THENCE NORTH SIXTY
 FOUR RODS ON SAID QUARTER SECTION
 LINE: THENCE WEST EIGHTY RODS TO
 HALF SECTION LINE: THENCE SOUTH
 SIXTY FOUR RODS TO SOUTH LINE OF
 SAID SECTION THIRTY TO THE PLACE OF
 BEGINNING, ALL IN SECTION THIRTY,
 TOWNSHIP FIVE SOUTH OF RANGE FOUR
 EAST: CONTAINING SIXTY FOUR ACRES,
 MORE OR LESS," and RUTH Y. MOORER,
 Individually, and RUTH Y. MOORER,
 as Executrix of the last will and
 testament of Henry D. Moorner, deceased,

Defendants.

IN THE
 CIRCUIT COURT
 EQUITY SIDE
 OF
 STATE OF ALABAMA AND
 COUNTY OF BALDWIN.

Come your Complainants MARY ARD AND BOSE ARD and show
 this their bill of complaint against the following described tract
 of land situated in the County of Baldwin, State of Alabama, to-
 wit: "Commencing at the Southeast Corner of the Southeast Quarter
 of Section Thirty, Township Five South of Range Four East; thence
 running North Sixty-four rods; thence West Eighty rods, more or
 less to Quarter Section line; thence South Sixty-four rods; thence
 East on the Section line between Sections Thirty and Thirty-one,
 to place of beginning all in Section Thirty, Township Five South
 of Range Four East; ALSO that other piece or parcel of land
 described as follows, to-wit: Commencing at the Southwest Corner
 of the Southeast Quarter of Section Thirty in Township Five South
 of Range Four East; thence running east Eighty rods to the

Quarter Section line in said Section; thence North Sixty-four rods on said Quarter Section line; thence West Eighty rods to Half Section line; thence South Sixty four rods to South line of said Section Thirty to the place of beginning, all in Section Thirty, Township Five South of Range Four East; containing Sixty-four acres, more or less" and Ruth Y. Moorner, individually, and Ruth Y. Moorner as Executrix of the last will and testament of Henry D. Moorner, deceased, and Complainants further bring their bill of complaint against any and all persons claiming any title to, interest in, lien or encumbrance upon said lands or any part thereof and Complainants further respectfully show unto your Honor as follows:-

FIRST: That they are in the actual peaceful possession of the said tract of land heretofore mentioned, claiming to own the same in their own right in fee simple;

SECOND: That no suit is pending to test Complainants' title to, interest in or their right to possession of said land;

THIRD: Complainants further show that they claim the entire fee simple title in and to the said lands having acquired the same as per attached copy of deed which is made Exhibit "A" and is made a part of the same;

FOURTH: Complainants further show that the title to said lands stands on the records in the Probate Court of Baldwin County Alabama in the name of Complainants; Your Orator further shows unto your Honor that the said Ruth Y. Moorner, individually and/or as Executrix of the estate of Henry D. Moorner, deceased, are reputed to claim some right, title or interest in or encumbrance upon said lands and your Orator respectfully calls upon the parties mentioned in this paragraph to set forth and specify their title, claim, interest or encumbrance upon the said and how and by what instrument the same was derived and created;

FIVE: Complainants further show unto your Honor that the above named individual, firm or corporation have not assessed or paid taxes on the aforesaid lands during the past ten years pro-

ceeding the filing of this bill of complaint. Complainants further show unto your Honor that they have assessed and paid taxes upon the aforesaid lands during the last ten years next proceeding the filing of this bill of complaint;

SIXTH: Complainants further show unto Your Honor that they know of no one other than themselves who have been in actual possession of the said lands and that no one is known to your Complainants to claim this land or any part thereof and any interest therein except the complainants and the Defendant to this proceeding and Complainants call upon the Defendant herein or anyone else interested to set forth and specify his, her or its title, claim interest or encumbrance upon said lands and how and by what instrument or otherwise the same is derived and created. Complainants further aver that they have made a diligent search and inquiry to ascertain the residence and addresses of all persons, firms or corporations herein interested and whether or not any of them be dead and if dead to ascertain the names and addresses of the heirs, devisees, successors and assigns and grantees of such deceased persons. THAT in this investigation and inquiry Complainants have had a complete abstract of title on the said real estate made from the records of Baldwin County, Alabama, that they have made a diligent inquiry in the neighborhood of the said lands as to the ownership of the same, the possession of the same and the whereabouts of any and all persons who are interested in said lands or may be interested in the same or who may claim any interest therein; That in making said inquiry in the neighborhood of said lands they have inquired of all old settlers and people who are acquainted with the history of the community and its residents and generally what is going on in their community.

SEVEN: Complainants further show unto your Honor that they received title in fee simple to the above described property by warranty deed dated February 27th, 1923 executed by Charles Phillips and Essie Phillips, his wife, which is marked Exhibit "A" and that your Complainants, Bose Ard and Mary Ard executed

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a land sale contract on this property to one W. A. Dalbey on October 18th, 1924 which is hereto attached copy and made a part hereof and marked Exhibit "B" and that the said W. A. Dalbey while he had this land sale contract on July 1st, 1925 executed a mortgage deed to the First Joint Stock Land Bank of Montgomery on this property in consideration of \$2700.00 which said instrument is hereto attached and made a part hereof marked Exhibit "C" and that this mortgage still remains upon the records and shows uncanceled and that further on March 20th, 1926 the First Joint Stock Land Bank of Montgomery transferred and assigned without recourse this mortgage to Henry D. Moorer a copy of which is hereto attached and marked Exhibit "D". On February 25th, 1927 W. A. Dalbey executed to Mary Ard, one of your complainants, a Quit Claim Deed to this property relinquishing all his right, title and interest in the property which he attained under this agreement dated October 18th, 1924 which said instrument is hereto attached and marked Exhibit "E" and your Complainants further show unto this Honorable Court that it was the intention of the parties that the execution of this quit claim deed of W. A. Dalbey would clear this property from all liens and encumbrances caused by the articles of agreement hereinabove referred to and the Complainants further show unto this Honorable Court that since this time said Henry D. Moorer is now deceased and the said Ruth Y. Moorer, as executrix of his estate which is solvent and that they do not claim any right, title or interest to this property but the fact that this is of record being a cloud on this title it is necessary that this action be taken in order to clear the above described property and the shadow from this title. And Complainants further show unto your Honor that in this mortgage deed by Wilburn A. Dalbey to the First Joint Stock Land Bank of Montgomery, Alabama that other lands were included beside the lands herein above described and that the mortgage foreclosure deed was executed by Wilburn A. Dalbey to the First Joint Stock Land Bank of Montgomery, recorded in deed Book 39, page 521 but

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did not include the property in this foreclosure deed of your Complainants.

PRAYER FOR PROCESS

TO THE END THEREFORE that equity may be had in the premises Complainants pray that your Honor will cause the usual writ of process to issue to the above named Defendant in the usual form and according to the practice of this Honorable Court requiring them to plead, answer or demur to the same within the time required by law and the practice of this Honorable Court and that your Honor will also cause notice to be published of the proceedings instituted by the filing of this bill of complaint as required by the laws of the State of Alabama authorizing the quieting of title by proceedings in rem and that the Honorable Court will also order that notice be given of the filing of this bill of complaint to Ruth Y. Moorer, individually and as executrix of the estate of Henry D. Moorer, deceased, and the heirs of Henry D. Moorer and by publication in some newspaper published in Baldwin County, Alabama make them parties to this bill of complaint and requiring them to plead, answer or demur to the same within the time required by law.

PRAYER FOR PROCESS

And Complainants further pray that upon the hearing of this cause your Honor will be pleased to establish complainants' right or title to and will decree that complainants are the owners in fee simple of said lands above described and that no other person firm or corporation has any title, to or interest in or lien or encumbrance upon the said lands or any part thereof and in the said decree your Honor will cause a certified copy of the decree to be filed in the Probate Office of Baldwin County, Alabama and to be recorded therein and that the said decree your Honor will direct in whose name it shall be indexed in the direct indexes and in whose name it shall be indexed in the indirect indexes of the

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records thereof in the said Probate Office of Baldwin County, Alabama and Complainants further pray for such other further and different and general relief as in equity may seem just and meet and Complainants will ever pray, etc.



Solicitor for Complainants.

FOOT NOTE:

All persons claiming any title to, interest in, lien or encumbrance upon the property described in the foregoing bill of complaint or any part thereof are required to answer to paragraph one to seven inclusive but answer under oath is hereby expressly waived.


Solicitor for Complainants.

Comes Ruth Y. Moorner, individually and as executrix of the last will and testament of Henry D. Moorner, deceased, and accepts service of a copy of the foregoing bill of complaint and waives all further notice of the filing thereof and hereby enters this as her appearance in said cause, both individually and as executrix aforesaid, this 16th day of April, 1937.


Solicitors for respondent, Ruth Y. Moorner, individually and as executrix of the estate of Henry D. Moorner, deceased.

STATE OF ALABAMA

BALDWIN COUNTY.

Personally appeared before me, John J. Ganus, a Notary Public in and for said State and County, Orvis M. Brown, who upon oath deposes and says:-

That he is the Agent of, and one of the attorneys for, the Complainants in the above styled cause, and is therefore duly authorized to make this oath; that the facts stated in the foregoing Bill of Complaint upon knowledge are true; that he is informed as to the facts stated upon information and belief as therein stated, and verily believes, and so states, that the same are true.

Orvis M. Brown

Sworn to and subscribed before me, a Notary Public whose seal is hereto affixed, this 10 day of April 1937.

John J. Ganus
Notary Public, Baldwin County,
State of Alabama.

My commission expires March 16, 1939

Exhibit "A"

WARRANTY DEED.

CHARLES PHILLIPS and
ESSIE PHILLIPS, his
wife

-to-

BOSE ARD.

WARRANTY DEED.

Dated Feb. 27th, 1923.

Separate and General Acknow-
ledgment same day, Notary

Public, Baldwin County, Ala.

Seal. Filed July 5th, 1923.

Deed Book 33 N.S. pages 363-4.

Consideration \$1300.00.

Witnesses: Two.

CONVEYS:-

".....in Baldwin County, Alabama, described as follows, to-wit:- Commencing at the southeast corner of the southeast quarter of Section 30 in Township 5 South of Range 4 East, thence running North 64 rods, thence west 80 rods, more or less to quarter section line, thence south 64 rods, thence east on the section line between sections 30 and 31 to place of beginning all in section 30, Township 5 South of Range 4 East; Also that other piece or parcel of land described as follows, to-wit:- Commencing at the southwest corner of the southeast quarter of section 30 in Township 5 South of Range 4 East, thence running east 80 rods to the quarter section line in said section, thence North 64 rods on said quarter section line, thence west 80 rods to half section line, thence south 64 rods to south line of said section 30, the place of beginning, all in Section 30 Township 5 South of Range 4 East, both pieces containing 64 acres, more or less."

NOTE:-Essie Phillips signs by mark.

Exhibit "E".

There was filed for record on February 25th, 1927 and recorded in Deed Book 42 N.S. Pages 242-3, the following instrument, viz:-

"QUIT CLAIM DEED.

STATE OF ALABAMA.

BALDWIN COUNTY.

This deed made and entered into on this 25th day of February 1927 by and between W. A. Dalbey, a single man of first part and Mary Ard, of the 2nd part, witnesseth:-

That party of the first part for and inconsideration of the sum of \$1.00 and other good and valuable considerations to him in hand paid by party of the 2nd party, receipt whereof is hereby acknowledged, has and by these presents does, remise, release, and quit-claim unto the party of the second part all of his right, title and interest in and to that certain agreement between Bose Ard and Mary Ard, his wife, and W. A. Dalbey of October 18th, 1924, or record in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 35 N.S. pages 316-17 and in and to all property described in or conveyed by said agreement.

To have and to hold unto said party of the second part his heirs and assigns in fee simple.

In witness whereof the party of the first part hereunto sets his hand and seal this the 25th day of February, 1927.

Witness:

Norborne Stone.

W. A. Dalbey (Seal).
"

Acknowledged same day before Notary Public, Baldwin County, Alabama. Seal.

Exhibit "B"

A G R E E M E N T

BOSE ARD and MARY ARD, his
wife.

-to-

W. A. DALBEY.

AGREEMENT.

Dated Oct. 18th, 1924.
General acknowledgements October
21st, 1924. Notary Public,
Baldwin County, Alabama. Seal.
Filed Dec. 30th, 1924.
Deed Book 35 N.S. Pages 316-17.
\$3500.00 Consideration.
Witnesses: Two.

RECITES:-

"That the parties of the first part for and in considera-
tion of the sum of ~~\$\$~~500.00, \$500.00 cash, receipt of which is
hereby acknowledged and \$500.00 within one year from this date and
the balance of \$2500.00 two years from this date, both deferred
payments bearing interest at the rate of 6% as evidenced by two
notes of even date herewith, said parties of the first party do
hereby agree to convey to said party of the second part by a full
warranty deed, the following described real estate, to-wit:-

Commencing at the Southeast Corner of the Southeast Quar-
ter of Section 30 Township 5 South of Range 4 East, thence run
North 64 rods, thence West 80 rods, more or less to the quarter
section line, thence South 64 rods, thence east on the section
line between sections thirty and thirty-one to place of beginning,
all in Section 30 Township Five South of Range 4 east; Also that

other piece or parcel of land described as follows, to-wit:-
Commencing at the Southwest Corner of the Southeast Q uarter of
Section Thirty Township Five South of Range 4 East, thence run
east 80 rods, to the quarter section line in said section, thence
north 64 rods, on said quarter section line, thence west 80 rods
to the half section line, thence south 64 rods to the south line
of said section, 30 the place of beginning, all in section 30
Township 5 South of Range 4 East, both places to-gether contain-
ing 64 acres, more or less....."

NOTE: Bose Ard and Mary Ard sign by mark.

Exhibit "C"

MORTGAGE DEED.

WILBERN A. DALBY.
an unmarried man.

-to-

FIRST JOINT STOCK LAND BANK
of Montgomery, Alabama.

MORTGAGE DEED.
Dated July 1st, 1925
General acknowledgement July
3rd, 1925. Notary Public,
Baldwin County, Alabama.
Filed July 3rd, 1925.
Mortgage Book 33 pages 458-60
Consideration \$2700.00.
Witnesses: Two.

Conveys: ".....in the County of Baldwin, State of Alabama,
towit-.....(here described land not covered by this abstract)
.....tract of land commencing at the southeast corner of the
Southeast Quarter of Section, thence run north 64 rods, thence
west 80 rods, more or less to the quarter section line, thence
south 64 rods, thence east on the section line between sections
30 and 31 to place of beginning, all being in Section 30; also
that other piece or parcel of land described as follows,
commencing at the Southwest Corner of the Southeast quarter of
Section 30, thence run east 80 rods, thence North 64 rods on
said quarter section line, thence west 80 rods to half section
line, thence south 64 rods to south line of said section to
place of beginning, all in Section 30, and the tracts last
above described containing 64 acres, more or less. All the
land herein described and hereby conveyed being in Township 5
South of Range 4 East of St. Stephens Meridian and containing
in the aggregate 84 acres, more or less....."

NOTE: Debt secured by this instrument evidenced by 65 notes, the
first 64 for \$94.50 and the last for \$78.84 and the first install-
ment being due January 1st, 1926 and remaining installments due
on the first day of July and January of each year.

NOT SHOWN CANCELLED NOR RELEASED.

Exhibit "D".

MORTGAGE ASSIGNMENT.

There was filed for record on March 20th, 1926 and recorded in Deed Book 42, N.S. Page 244-5, the following instrument, viz:-

"STATE OF ALABAMA.

BALDWIN COUNTY.

For value received, the First Joint Stock Land Bank of Montgomery, Alabama, hereby transfers and assigns without recourse to Henry D. Moorer, that certain mortgage by Wilbern A. Dalbey an unmarried man to it dated July 1st, 1925 and recorded in the office of the Judge of Probate of Baldwin County, together with the debt secured thereby.

Witness the corporate seal of the First Joint Stock Land Bank of Montgomery, Alabama by its proper officer thereof, duly authorized, this 20th day of March, 1926.

Attest:
J. A. Ledbetter.

FIRST JOINT STOCK LAND BANK of
Montgomery, Alabama.
By A.M. Baldwin, Pres."

Acknowledged same day before Notary Public, Montgomery, County, Alabama. Seal.
