

STATE OF ALABAMA )  
BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA:- GREETING:

You are hereby commanded to summon HENRY KORNFELD to appear within thirty days from service of this writ in the Circuit Court, to be held for said County at the place of holding the same, then and there to answer the complaint of Mildred Freytag.

Witness my hand, this 20 day of March, 1947.

Eric J. Leach  
CLERK

MILDRED FREYTAG,  
Plaintiff  
VS.  
HENRY KORNFELD,  
Defendant

NO. \_\_\_\_\_  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,,  
AT LAW.

The Plaintiff sues to recover possession of the following tract of land:

The South one-half ( $S\frac{1}{2}$ ) of the Southwest Quarter ( $SW\frac{1}{4}$ ) of Section Sixteen (16), Township Seven (7) South of Range Six (6), East of St. Stephens Meridian, with all improvements thereon, situated in Baldwin County, State of Alabama.

of which she was in possession, and upon which, pending such possession, and before the commencement of this suit, the defendant entered and unlawfully withholds, together with ONE HUNDRED (\$100.00) DOLLARS for the detention thereof.

Jeffrey J. Mashburn, Jr.  
Attorney for Plaintiff

NO. \_\_\_\_\_ / 1047  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

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MILDRED FREYTAG,  
Plaintiff,

VS.

HENRY KORNFELD,  
Defendant.

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ACTION IN THE NATURE OF AN  
ACTION IN EJECTMENT.

FILED  
MAR 20 1947

ALICE J. DUCK, Clerk  
Telfair J. Mashburn, Jr.  
Attorney-At-Law  
BAY MINETTE, ALABAMA

Received in Sheriff's Office  
this 24 day of Mar, 1947  
TAYLOR WILKINS, Sheriff

Excluded By Sending a copy  
of the Written Within  
Henry Kornfeld apic 21.1947  
Taylor Wilkins Sheriff  
Zellie R. Griffin ex.

DEMURRER

MILDRED FREYTAG,  
Plaintiff

VS

HENRY KORNFELD,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW.

Now comes the Plaintiff by her Attorney and demurrers  
to the petition heretofore filed by the defendant and for  
grounds for said demurrer assigns the following separately  
and severally:

1. There is no Equity in the petition.
2. The petition shows no facts to justify the transfer  
to the equity side of the Court.

Telfair J. Mashburn, Jr.  
Telfair J. Mashburn, Jr.  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW.

MILDRED FREYTAG,  
Plaintiff

VS.

HENRY KORNFELD,  
Defendant.

DEMURRER

*Filed*  
*6-18-47*  
*Alice J. Birch*  
*clerk*

MILDRED FREYTAG  
COMPLAINANT  
VS  
HENRY KORNFELD  
RESPONDENT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY.  
NO. 1047

Now comes the Respondent and moves the Court to transfer this cause from the Law side of the docket to the Equity side thereof, and represents that there is an equitable question, the decision of which should dispose of the cause, and which cannot be disposed of in the Law side of the court, and that he has an equitable defense to the Plaintiff's complaint as follows:

1.

That the Respondent is the owner of, and in the actual possession of the land described in the bill of complaint, and being situated in Baldwin County, Alabama, as follows:

South half of Southwest quarter of Section 16,  
Township 7 South, Range 6 East of St. Stephens  
Meridian, with all improvements thereon.

2.

That the Respondent and August Kiewe, through whom the Complainant holds, by conveyance dated November 8, 1946, and of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 113 NS, pages 347-8, came to Baldwin County, Alabama, in 1930, and purchased from Henry C. Bartling and Rose Bartling, husband and wife, by deed dated March 21, 1930, and of record in the office of the Probate Judge of Baldwin County, Alabama, the said Southeast quarter of Southwest quarter of Section 16, Township 7 South, Range 6 East; that it was expressly understood and agreed between the Respondent and the said August Kiewe that the Respondent was to have the said land, and that the said August Kiewe should have the right from time to time to visit with the Respondent and occupy the said property as a home, during such visits without any charge; that the Respondent relying upon the said agreement went into the actual possession of the said land in 1933, and made extensive improvements thereon; that he has lived on and occupied the said property as his home and homestead continuously from 1933; that he did not and has never recognized the claim of the said August Kiewe, but

has at all times claimed and held the same adversely to any claim on the part of the said August Kiewe; that he has made repeated demands upon the said August Kiewe to execute proper conveyances in accordance with their agreement entered into at the time of the purchase of said property, but he has refused; that the Respondent has fully and completely paid and satisfied all the terms and conditions of the oral contract and agreement made and entered into by and between him and the said August Kiewe; that the Respondent paid to the said August Kiewe a part of the purchase price for said land and was placed in the actual possession thereof, and has continued to this day.

3.

That the Respondent on May 20, 1942, purchased from Wade H. Leonard and Julia W. Leonard, his wife, C. S. Faircloth and Katie Jewell Faircloth, his wife, the said Southwest quarter of the Southwest quarter of Section 16, Township 7 South, Range 6 East; that the Respondent paid the purchase price therefor, in full, and immediately went into the actual possession of the same and has remained to this time, ever claiming to own the same adversely to any rights on the part of the said August Kiewe; that through mistake or inadvertence on the draftment the title was erroneously placed in the name of August Kiewe as shown by instrument of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 77 NS, pages 443-4; that the Respondent is the actual owner of said land.

4.

That August Kiewe and Irmgard Kiewe, his wife, on November 8, 1946, conveyed to Mildred Freytag, the Complainant, the land described in this bill of complaint; that the Complainant knew, or by the exercise of reasonable diligence could have learned of the claim on the part of the Respondent, and that he was the actual owner thereof, he being in the actual possession of said land; that said conveyance from August Kiewe and wife, to the Complainant, was made for no consideration, or for a nominal consideration, and for the sole and only purpose of defrauding the Respondent.

5.

That the said August Kiewe on July 7, 1930, as shown by instrument of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 49 NS, pages 198-9, fraudulently procured the Respondent and Minna Kornfeld his wife, to convey to the said August Kiewe by quit claim deed the Southeast quarter of Southwest quarter of Section 16, Township 7 South, Range 6 East, this conveyance was made with the express understanding and agreement that the property was to remain that of the Respondent, but for convenience the title should be placed in the said August Kiewe, he being a bachelor, it would be much easier to secure loans on the property; that it was expressly understood that the said property should be and remain the property of the Respondent; that the said August Kiewe did not carrying not out the terms of the agreement; that he did not pay the interest on money borrowed with which to purchase the said property, but that the Respondent was called upon and had to pay the interest and principal indebtedness on said property in order to protect his title.

6.

The the Respondent relying upon the oral agreement with August Kiewe, paid a part of the purchase price of said land and went into the actual possession thereof, has spent the past fourteen years of his life, and that of his wife, Minna Kornfeld in maintaining and improving the said property, making the same fit for a home, at all times claiming the same adversely, and to the exclusion of the Complainant and August Kiewe through whom she claims.

WHEREFORE, The Defendant respectfully request that this cause be transferred to the Equity side of the docket, that he may obtain the benefits of his equitable defense to this cause of action.

Henry Kornfeld.  
Respondent

Sam Saer  
Solicitor for the Respondent

STATE OF ALABAMA  
BALDWIN COUNTY

Before me, the undersigned authority, in and for said County, in said State, personally appeared Henry Kornfeld, who is known to me and who having been by me first duly sworn, deposes and says that he is the Respondent in the above styled cause; that the facts stated in the foregoing motion to transfer this cause to the Equity side of the docket are correct.

Henry Kornfeld.

Sworn and subscribed before me on this the 17 day of May, 1947.

Sam Saer  
Baldwin County, Alabama, Notary Public

1047

MILDRED FREYTAG

COMPLAINANT

VS

HENRY KORNFELD

RESPONDENT

PETITION TO TRANSFER

FILED

MAY 19 1947

ALICE J. DUCK, Clerk

17491