

REGAL ANDRE, INC., a corporation,)	CIRCUIT COURT
Plaintiff,)	
)	
vs)	BALDWIN COUNTY, ALABAMA
)	LAW SIDE
ROSE WOODALL,)	
Defendant.)	CASE NO. 1458.

MOTION FOR NEW TRIAL

Now comes the Plaintiff in the above styled cause, and moves the Court to set aside the verdict of the Jury heretofore returned, and the judgment of the Court rendered thereon in said cause, and to grant the Plaintiff a new trial, and as grounds for said motion Plaintiff assigns, separately and severally, the following, to-wit:

1. For that said verdict is contrary to the law of the case.
2. For that said verdict is contrary to the law of the case as to Count Four of the complaint as amended.
3. For that said verdict is contrary to the law of the case as to Count Four of the complaint as amended in that plaintiff was a bona fide holder in due course, before maturity, without notice, for a valuable consideration of a note sued thereon.
4. For that said verdict is contrary to the law of the case as to Count Four of the Complaint as amended in that the defendant has admitted owing the debt evidenced by said note and thereby waived any plea of conversion and avoidance as to said Count. One
5. For that the verdict of the jury is not sustained by the great preponderance of the evidence in the case.
6. For that said verdict is not sustained by the weight of the evidence in the case.
7. For that the said verdict was procured through caprice of the jury.
8. For that said verdict was procured through bias of the jury.
9. For that said verdict was procured through passion of the jury.
10. For that the Court erred in overruling plaintiff's demurrers to defendant's plea Four.
11. For that the plaintiff now has newly discovered material evidence of which it did not have knowledge at the time of the trial and which it could not, with reasonable diligence have discovered and produced at the trial.

12. For that the witnesses who would offer said evidence are George Stone and Connie Vickery, the evidence to be offered by them will be that the defendant did not rely upon representations of A. C. Harris and E. M. Zeidman that the equipment of the Stone Hair Designing and Beauty Institute, Inc., was worth at least \$6,000, and that the defendant relying upon the representations of the said A. C. Harris and E. M. Zeidman did not examine the equipment; that the defendant had discussed the business of said Stone Hair Designing and Beauty Institute, Inc., with one or more of said witnesses over a long period of time preceding the purchase of the business by her; that she was thoroughly familiar with the inventory of equipment and supplies before she purchased said business; that she and her late husband not only checked the inventory of equipment and supplies, but also examined the books and records of the business showing receipts and disbursements and the operation of the business prior to acquiring the business.

13. For that, even though plaintiff's counsel did not object to the remarks of the defendant's counsel, they were so prejudice, bias and inflammatory as to make impossible a fair and impartial verdict by the jury.

14. For that the court erred in refusing to give, at the request of the plaintiff before the jury retired the following written charge:

"The Court charges the Jury that if you believe the evidence you must find for the Plaintiff under Count 3 of the Complaint and under Count 4 of the Complaint as amended."

15. For that the Court erred in refusing to give, at the request of the plaintiff before the jury retired the following written charge:

"The Court charges the Jury that if you believe the evidence you must find against the Defendant under her plea Number 4."

16. For that the Court erred in refusing to grant plaintiff's motion for a directed verdict as to Count 3 of the original Complaint and as to Count Four of the complaint as amended before the jury retired in words and figures as follows:

"REGAL ANDRE, INC., a corporation,	}	IN THE CIRCUIT COURT OF
Plaintiff,		
vs	}	BALDWIN COUNTY, ALABAMA
ROSE WOODALL,		
Defendant.)		AT LAW NO. 1458
MOTION FOR DIRECTED VERDICT		

Come the plaintiff, Regal Andre, Inc., a Corporation, plaintiff in the above styled cause, and moves the Court to direct a verdict in favor of the plaintiff and against the defendant on Count 3 of the Complaint and on Count 4 of the Complaint as Amended.

/s/ E. M. Zeidman
Attorney for Plaintiff

Filed June 28, 1950"

E. M. Zeidman
J. B. Blackburn
Attorneys for Plaintiff.

RECORDED
MOTION FOR NEW TRIAL

721458

REGAL ANDRE, INC.,
A Corporation,

VS.

Plaintiff,

ROSE WOODALL,

Defendant.

Continued to and
set for hearing at
10:00 a.m. on August
2, 1950.
Dated July 24, 1950.
Telfair J. Masliburn
Judge

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

FILED

JUL 24 1950

ALICE L. DICK, Clerk

Filed: July 24, 1950.

Telfair J. Masliburn

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

CIRCUIT COURT BALDWIN COUNTY

~~TENTH JUDICIAL CIRCUIT OF ALABAMA~~

You are hereby commanded to summon Rose Woodall to appear before the Circuit Court, to be held for said County, at the place of holding the same, within thirty days from service of this process, then and there to answer the complaint of Regal Andre, Inc., a corporation.

Deirdre. Kershner
CLERK

REGAL ANDRE, INC., a cor- (ROSE WOODALL,
poration, Plaintiff) VS (Defendant

And Plaintiff avers that as a part of said instrument Defendant waived her right to exemptions as to personal property and agreed to pay a reasonable attorney's fee, which it also claims, to-wit, \$271.50

COUNT 3. Plaintiff claims of the defendant the sum of Three Hundred Sixteen and 26/100 (\$316.26) Dollars due from her for merchandise, goods and chattels sold by the plaintiff to the defendant on to-wit, June 20, 1948, which sum with interest thereon is still unpaid.

ATTORNEY FOR PLAINTIFF

Executed Feb. 8, 1950
By Serving Copy on
Rose Woodall.

Shuff
Taylor Wilkins
By
Edwigh Steadham

W1458
RECORDED

CIRCUIT COURT
BALDWIN COUNTY, ALABAMA

REGAL ANDRE, INC., a corpor-
ation,
(Birmingham, Alabama)
Plaintiff

vs

ROSE WOODALL,
Defendant
(Magnolia Hotel, Foley, Ala)

SUMMONS & COMPLAINT

E. M. ZEIDMAN
618-19 Massey Building,
Birmingham, Alabama

FILED

FEB 3 1950

ALLIE J. DICK, CLERK

We the Jury find the defendant Rose
Woodall owes the plaintiff \$316.26
in payment of open account. Also that
the defendant has paid in full for
property and no further payments
shall be made on note for \$3000.00
now held by Regal Andre Inc.
and that each party pay their own
attorney fees.

C. S. White
Foreman

REGAL ANDRE, INC., a cor-
poration,
Plaintiff,
vs
ROSE WOODALL,
Defendant.

CIRCUIT COURT
BALDWIN COUNTY
A L A B A M A
1458

AMENDMENT TO COMPLAINT

With leave of the Court first being had, Plaintiff amends its complaint by adding Count 4.

Count 4: Plaintiff claims of the Defendant the sum of \$2125.00 due by promissory note made by Defendant on to-wit, July 19, 1947, and payable to George Stone and endorsed by the said George Stone to the Plaintiff on to-wit, July 9, 1947, being before maturity of any monthly installment, said promissory note being payable in monthly installments of \$125.00, the first of said installments being due and payable on to-wit, March 10, 1948 and each succeeding installment being due and payable on or before each succeeding month thereafter with interest thereon from to-wit, July 9, 1947.

And Plaintiff avers that as a part of said instrument defendant waived her right to exemptions as to personal property and agreed to pay a reasonable attorney's fee, which it also claims, to-wit, \$271.50.


ATTORNEY FOR PLAINTIFF

RECORDED

CIRCUIT COURT

BALDWIN COUNTY

ALABAMA

1458

REGAL ANDRE, INC., a corporation,
Plaintiff,

vs

ROSE WOODALL,
Defendant.

AMENDMENT TO COMPLAINT

E. M. ZEIDMAN
ATTORNEY FOR PLAINTIFF

*Filed 6-28-58
Alice J. Hump
Clerk*

REGAL ANDRE, INC., a
corporation.

PLAINTIFF

VS.

ROSE WOODALL.

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 1458

Now comes the Defendant and for answer to the Plaintiff's
complaint and to each count thereof, separately and severally
says:

1.

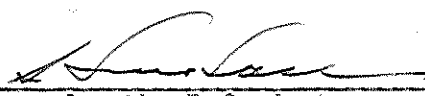
That she is not guilty.

2.

That the facts therein alleged are untrue.

3.

That the account sued on was paid before the commencement
of this suit.


Attorney for the Defendant

The Defendant demands a trial by Jury.


Attorney for the Defendant

2
RECORDED

Answer

REGAL ANDRE INC., a
corporation

PLAINTIFF

VS.

Rose Woodall

DEFENDANT

IN THE CIRCUIT COURT OF

BALEWIN COUNTY, ALABAMA

IN EQUITY

NO. 1458

FILED

FEB 25 1950

ALICE J. DUCK, Clerk

11

REGAL ANDRE, INC.,
A CORPORATION,

PLAINTIFF

VS

ROSE WOODALL

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

ax Lee
~~IN EQUITY~~

NO. 1458

Now comes the Defendant and amends her pleas heretofore by adding plea four as follows:

4.

The Defendant avers that the consideration of the note sued on was the sale by Plaintiff to Defendant of a beauty shop and beauty school known as Stone Hairdressing Institute Inc., in the city of Birmingham, Alabama; that the Plaintiff acting by and through its agents and representatives, A. C. Harris and Eugene M. Zeidman, attorney, the said Eugene M. Zeidman being also the attorney for the Defendant in the transaction, falsely represented to the Defendant that the equipment of the said Stone Hairdressing Institute Inc., was worth at least ~~SIXTY-THREE~~ ^{6000.00} HUNDRED (\$~~6500.00~~) DOLLARS: that the Defendant relying upon the representations of the said A. C. Harris and her attorney, Eugene M. Zeidman, who was also the attorney for the Plaintiff, executed the note sued on; that the representations made by the said A. C. Harris and Eugene M. Zeidman were false, and that they knew they were false; that the Defendant relying upon the representations of the said Harris and Zeidman, having confidence in her attorney, the said Zeidman, did not examine the equipment; that the equipment of the said Stone Hairdressing Institute Inc., was not worth more than THREE THOUSAND (\$3000.00) DOLLARS: that she has already paid on the said note the sum of ~~FORTY-FIVE HUNDRED~~ ^{3870.12} (\$~~4500.00~~) DOLLARS with interest, which amount is at least ~~FIFTEEN HUNDRED~~ ^{870.12} (\$~~1500.00~~) DOLLARS in excess of the value of said equipment; that the Plaintiff has received from the Defendant the sum of ~~FIFTEEN HUNDRED~~ ^{870.12} (\$~~1500.00~~) DOLLARS with the interest thereon in excess of the value of the equipment which she purchased, which amount she hereby offers to off set against the claim of the Plaintiff and claims judgment for said amount.

ax Lee
Attorney for the Defendant.

RECORDED

11

Amended Plea

REGAL ANDRE INC,
PLAINTIFF
VS
ROSE WOODALL
DEFENDANT

Filed: June 28, 1930.

Jessie J. Nashbury
Judge.

REGAL ANDRE, INC.,
a Corporation,

Plaintiff,

VS.

ROSE WOODALL,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 1458.

MOTION FOR DIRECTED VERDICT

Come the plaintiff, Regal Andre, Inc., a Corporation, plaintiff in the above styled cause, and moves the Court to direct a verdict in favor of the plaintiff and against the defendant on Count 3 of the Complaint and on Count 4 of the Complaint as Amended.

Ern. Zedman
Attorney for Plaintiff

RECORDED

Regal Andre, Sus.

vs.

Rose woodall

motion for directed
verdict.

Filed: June 28, 1950.

Jeffair J. Masliburn, Jr.
Judge.

REGAL ANDRE, INC.,
a Corporation,

Plaintiff,

VS.

ROSE WOODALL,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. NO. 1458

AMENDED COMPLAINT

Now comes the plaintiff and amends Count 4 of the complaint heretofore filed in this cause, so that the said Count 4, as amended, will read as follows:

Count 4: The plaintiff claims of the defendant the sum of Twenty-one Hundred Twenty-five and No/100 Dollars (\$2125.00), the balance due by a promissory note for Three Thousand Dollars (\$3,000.00) made by the defendant on, to-wit, July 9, 1947, and payable to George Stone at the First National Bank of Birmingham, Birmingham, Alabama, in monthly installments of One Hundred Twenty-five Dollars (\$125.00); the first of said installments became due and payable on, to-wit, August 10, 1947, and each succeeding installment being due and payable on or before the tenth day of each succeeding month thereafter, with interest thereon from, to-wit, July 9, 1947 at the rate of six percent (6%); that the said George Stone, for a valuable consideration and before maturity, transferred and endorsed the said note to the plaintiff in due course of business without any knowledge on the part of the plaintiff of the existence of any defect in or defense thereto and that the said plaintiff was a bona fide purchaser of the said note for value in due course of business. The said balance of \$2125.00 on the said note and interest thereon is still due and unpaid.

Plaintiff avers that as a part of the said instrument the defendant waived her right to exemptions as to personal property and agreed to pay a reasonable attorney's fee, which the plaintiff also claims in the amount of Three Hundred Twenty-five Dollars (\$325.00).

J. B. Blackburn
E. M. Zuckman

Attorneys for plaintiff.

AMENDED COMPLAINT

Plaintiff,

VS.

ROSE WOODALL,

Defendant.

AT LAW.

NO. 1458

Filed: 23 October 1951

Telling, Mableburne,
Judge.

THE STATE OF ALABAMA }
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the
2nd day of August Monday in 1940, in a cer-
tain cause in said Court wherein Regal Andre Inc. A Corporation

Plaintiff, and Rose Woodall
Defendant, a judgment was rendered against said

Rose Woodall
to reverse which Judgment, the said Rose Woodall

applied for and obtained from this office an APPEAL, returnable to the Fall

Term of our Supreme Court of the State of Alabama, to be held at Montgomery,
on the day of , 1940 next, and the necessary bond
having been given by the said Rose Woodall
with Harry C. Mills and J. F. Mills, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

Regal Andre Inc. A Corporation or J. B. Blackburn and Eugene Ziedman
 , attorney^s, to appear at the Fall Term of our

said Supreme Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 28th
day of August, A. D., 1940.

Attest:

Alice J. Duck, Clerk.

Received in Sheriff's Office
this 22 day of Aug. 1950
TAYLOR WILKINS, Sheriff

Original

RECORDED

No. 1458

CIRCUIT COURT
Baldwin County, Alabama

REGAL ANDRE, INC. A CORPORATION

Vs. } Citation in Appeal

ROSE WOODALL

Issued28th.. day of August....., 1950.

*Exempted Aug 31 1950
by serving copy of the
within on J. B. Blackburn
attorney*

*Taylor Wilkins Sheriff
147 Hall P.O.*

REGAL ANDRE INC.,
A CORPORATION,

PLAINTIFF

VS

ROSE WOODALL

DEFENDANT

)

)

)

)

)

)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

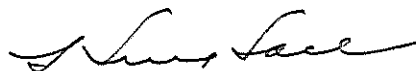
IN EQUITY

NO. 1158

TO: Regal Andre Inc., a corporation, and/or Hon. Eugene M. Zeidman,
and/or Hon. J. B. Blackburn:

Notice is hereby given that the Defendant, Rose Woodall, has given notice of her taking an appeal to the Supreme Court of the State of Alabama, from the judgment of the Judge of the Circuit Court of Baldwin County, Alabama, August 2, 1950, setting aside the verdict of the Jury and judgment of the Court rendered at the July term, 1950, of the Circuit Court of Baldwin County, Alabama.

Dated this the 20th day of August, 1950.



Attorney for the Defendant

RECORDED

REGAL ANDRE INC.
A CORPORATION

PLAINTIFF

VS

ROSE GOODALL

DEFENDANT

NOTICE OF APPEAL

FILED

AUG 28 1950

ALICE J. DUCK, *clerk*
Register

REGAL ANDRE INC.,
A CORPORATION,

PLAINTIFF

VS

ROSE WOODALL

DEFENDANT

IN THE CIRCUIT COURT OF

BALEWIN COUNTY, ALABAMA,

IN EQUITY CIVIL

NO. 1458

We, Rose Woodall, as principal and the undersigned as sureties
acknowledge ourselves security for the costs of the appeal to the Supreme
Court, of the State of Alabama of the above styled case by Rose Woodall
the Defendant, against whom the judgment was rendered therein at the
August 2, 1950 term of said Circuit Court of Baldwin County, Alabama,
setting aside the verdict of the jury and judgment of the court, rendered
at the July term 1950 of the Circuit Court of Baldwin County, Alabama.

Signed and sealed this the 25 day of August, 1950.

Rose Woodall (SEAL)
Harry E. Mills (SEAL)
J. P. Mills (SEAL)

Taken and approved this the 28th day of August, 1950.

W. J. H. H. H. H.
Clerk of the Circuit Court of Baldwin
County, Alabama.

RECORDED

REGAL ANDRE INC.,
A CORPORATION

PLAINTIFF

VS

ROSE WOODALL

DEFENDANT

BOND

Div. No.

CERTIFICATE OF APPEAL (Civil Cases)

No. 1158

Baldwin

County, Circuit Court.

REGAL ANDRE INC.

Plaintiff

vs.

ROSE WOODALL

Defendant

I, Alice J. Duck, Clerk of Circuit Court,

of Baldwin County, Alabama, hereby certify that in the cause of

Regal Andre Inc. Plaintiff.,

vs.

Rose Woodall Defendant.,

which was tried and determined in this Court, on the 2nd day of August 1950.

in which there was a judgment for _____ Dollars, in favor of the Plaintiff,

(or judgment for Defendant), the Defendant on the 28th day of August

1950 took an appeal to the Supreme Court of Alabama to be holden of and for said State.

I further certify that Rose Woodall filed

security for cost of appeal, to the Supreme Court, on the 28th day of August

1950, and that Harry C. Mills and J. F. Mills

are sureties on the appeal bond.

I further certify that notice of the said appeal was, on the 29th day of August

1950, served on Hon. J. B. Blackburn as attorney of record for said

appellee, and that the amount sued for was _____ Dollars.

(or certain lands) (or personal property)

Witness my hand and seal of this Court, this the 30th day of August 1950.

Clerk of the Circuit Court of

Baldwin

County, Alabama

RECORDED

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 19.50....

To the Clerk of the Circuit Court
of Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court
of said county, in a certain cause lately pending in said Court between.....

Rose Woodall....., Appellant.....,

and

Regal Andre, Inc......, Appellee.....,

wherein by said Court, at the Term, 19, it was considered
adversely to said appellant....., were brought before our Court of Appeals, by appeal taken, pursu-
ant to law, on behalf of said appellant.....:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered by our Court of Appeals, on the
9th day of January 19 51, that said judg-
ment of said Circuit Court be in all things affirmed,

and that it was further considered that the appellant....., and Harry C. Mills and

J. F. Mills

pay the cost accruing on said appeal in this Court and in the Court below.....

Witness, Charles Bricken, Jr., Clerk of the Court
of Appeals of Alabama, at the Capitol, this the
9th day of January, 19 51

Charles Bricken Jr.
Clerk, Court of Appeals of Alabama.

1458

RECORDED

THE COURT OF APPEALS OF ALABAMA

October Term, 1950

1st Div., No. 617

Rose Woodall

Appellant,

vs.

Regal Andre, Inc.

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF AFFIRMANCE.

THE STATE OF ALABAMA,

County.

Filed this 10th day of

January 1951

W. J. Rouse
clerk

JAN 9 1951

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1950-51

1 Div. 617

Rose Woodall

v.

Regal Andre, Inc.

Appeal from Baldwin Circuit Court

CARR, JUDGE

The plaintiff below brought suit against the defendant on a promissory note which was for \$2,125.00 in principal sum. The complaint also contained common counts for \$316.26. These latter counts were for merchandise, goods, and chattels sold by

REGAL ANDRE INC.,
A CORPORATION,

PLAINTIFF

VS

ROSE WOODALL

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 1458

TO: Regal Andre Inc., a corporation, and/or Hon. Eugene M. Zeidman,
and/or Hon. J. B. Blackburn:

Notice is hereby given that the Defendant, Rose Woodall, has given
notice of her taking an appeal to the Supreme Court of the State of
Alabama, from the judgment of the Judge of the Circuit Court of Baldwin
County, Alabama, August 2, 1950, setting aside the verdict of the Jury
and judgment of the Court rendered at the July term, 1950, of the Circuit
Court of Baldwin County, Alabama.

Dated this the 28th day of August, 1950.

Shirley Lee
Attorney for the Defendant

REGAL ANDRE INC.,
A CORPORATION,

PLAINTIFF

VS

ROSE WOODBALL

DEFENDANT

ROSE WOODBALL

REGAL ANDRE INC.

PLAINTIFF

DEFENDANT

TO: Regal Andre Inc., a corporation, and/or Hon. Eugene M. Feldman,

and/or Hon. J. B. Blackburn:

Notice is hereby given that the Defendant, Rose Woodball, has given notice of her taking appeal to the Supreme Court of the State of Alabama, from the judgment of the Judge of the Circuit Court of Baldwin County, Alabama, August 2, 1950, setting aside the verdict of the jury and judgment of the Court rendered at the July term, 1950, of the Circuit Court of Baldwin County, Alabama.

Dated this 28th day of August, 1950.

Attorney for the Defendant

NOTICE OF APPEAL

NO. 1158

IN EQUITY

BALDWIN COUNTY, ALABAMA,
IN THE CIRCUIT COURT OF

FILED

AUG 28 1950

ALICE L. DICK, Clerk

2.
the plaintiff to the defendant.

The judgment entry is:

"6-28-50 Came the parties by their attorneys, came also a jury of good and lawfully men, to-wit: C. L. White and eleven others, who being impanelled and duly sworn according to law, on their oaths say, We, the jury, find the issue in favor of the Plaintiff and assess the damages at the sum of \$316.26. And the same being considered by the Court;

"It is ordered and adjudged by the Court that the Plaintiff have and recover of the Defendant the said sum of \$316.26, the damages assessed as aforesaid, together with the costs in this behalf expended, for which execution may issue."

In due time the plaintiff filed a motion for a new trial. Among the grounds was that the verdict was contrary to the great weight of the evidence.

The trial judge granted this motion, and from this judgment the appeal followed.

The order granting the motion does not disclose the ground on which it was granted. In this state of the record we must sustain the judgment if we conclude that it is authorized on any ground assigned in the motion. W. M. Templeton & Son et al v. David, 233 Ala. 616, 173 So. 231; Martin v. Birmingham Southern R. Co., 250 Ala. 583, 35 So. 2d 339; Crumpton v. Pilgrim Health & Life Ins. Co., Ala. App., 46 So. 2d 848.

The appellate courts are committed to the doctrine that an order granting a motion for a new trial in cases tried by a jury will not be disturbed "unless the evidence plainly and palpably supports the verdict." Cobb v. Malone, 92 Ala. 630, 9 So. 738; Hall v. Clark, 225 Ala. 87, 142 So. 65.

In the case of Proctor v. Coffey, 227 Ala. 318, 149 So. 838, Justice Foster, writing for the Supreme Court, made this observation:

3.

"The court assigned no ground as that on which it acted in granting the motion. One ground was that the verdict was contrary to the great weight of the evidence. The ruling might have been based on that ground. We do not wish to say that, as an original proposition such would be our ruling as to the evidence, but we cannot reverse the judgment on such a ruling unless we think that it was clearly wrong."

See also, Goad v. Harris, 207 Ala. 357, 92 So. 546.

The rule prevails that in reviewing the order of the lower court in granting a motion for a new trial the same presumption must be indulged in favor of the ruling as when the motion is denied. Cook v. Sheffield Co., 206 Ala. 625, 91 So. 473; Landers v. Moore et al, 214 Ala. 20, 106 So. 225.

For obvious reasons we will not discuss the evidence. Without prejudice to either party litigant, it may be stated that the prime factual issue centered around whether or not fraud was practiced in the sale of some property. The promissory note was given to secure payment for this property.

The trial court saw and heard the witnesses and we are not prepared to say that the evidence so plainly and palpably supported the verdict of the jury as to put the trial court in error in setting same aside.

The judgment of the court below is ordered affirmed.

AFFIRMED.

THE STATE OF ALABAMA--JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

1st Div., No. 617

Rose Woodall Appellant

v.

Regal Andre, Inc. Appellee

From Baldwin Circuit Court

The State of Alabama,
City and County of Montgomery. }

I, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, do hereby certify that the foregoing pages numbered from one to 3 inclusive, contain a full, true and correct copy of the opinion of said Court of Appeals in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Charles Bricken, Jr., Clerk of the Court
of Appeals of Alabama, at the Capitol, this the

9th day of January, 1951

Charles Bricken, Jr.
Clerk of the Court of Appeals of Alabama.

RECORDED

THE COURT OF APPEALS OF ALABAMA

1st Div., No. 617

Rose Woodall

Appellant

vs.

Regal Andre, Inc.

Appellee

From Baldwin Circuit Court.

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1946

CIRCUIT COURT BALDWIN COUNTY

~~FIFTH JUDICIAL CIRCUIT OF ALABAMA~~

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETING:

You are hereby commanded to summon Rose Woodall to appear before the Circuit Court, to be held for said County, at the place of holding the same, within thirty days from service of this process, then and there to answer the complaint of Regal Andre, Inc., a corporation.

WITNESS my hand, this 3rd day of February, 1950.

David L. Smith
CLERK

C O M P L A I N T

REGAL ANDRE, INC., a corporation, Plaintiff) VS (ROSE WOODALL, Defendant

COUNT 1. The Plaintiff claims of the defendant Two Thousand One Hundred Twenty-Five (\$2,125.00) Dollars due by promissory note made by her on to-wit, the 9th day of July 1947, and payable in monthly installments of \$125.00, the first of said installments being due and payable on to-wit, March 10, 1948, and each succeeding installment being due and payable on or before the 10th day of each succeeding month thereafter, with interest thereon from to-wit, July 9, 1947.

And Plaintiff avers that as a part of said instrument Defendant waived her right to exemptions as to personal property and agreed to pay a reasonable attorney's fee, which it also claims, to-wit, \$271.50

COUNT 2. Plaintiff claims of the defendant the sum of Three Hundred Sixteen and 26/100 (\$316.26) Dollars, due from her by account stated between Plaintiff and Defendant on to-wit, the 20th day of June, 1948, which sum with interest is still unpaid.

COUNT 3. Plaintiff claims of the defendant the sum of Three Hundred Sixteen and 26/100 (\$316.26) Dollars due from her for merchandise, goods and chattels sold by the plaintiff to the defendant on to-wit, June 20, 1948, which sum with interest thereon is still unpaid.

Ernest Friedman
ATTORNEY FOR PLAINTIFF

2/8/50 Mr. Woodall

770 1458

CIRCUIT COURT
BALDWIN COUNTY, ALABAMA

REGAL ANDRE, INC., a corporation,
(Birmingham, Alabama)
Plaintiff

VS

ROSE WOODALL,
Defendant
(Magnolia Hotel, Foley, Ala)

SUMMONS & COMPLAINT

E. M. ZEIDMAN
618-19 Massey Building,
Birmingham, Alabama

FILED

FEB 3 1950

ALICE J. BUCK, Clerk

REGAL ANDRE, INC., a corporation,

Plaintiff,

vs

ROSE WOODALL,

Defendant.

CIRCUIT COURT

BALDWIN COUNTY

ALABAMA

1458

AMENDMENT TO COMPLAINT

With leave of the Court first being had, Plaintiff amends its complaint by adding Count 4.

Count 4: Plaintiff claims of the Defendant the sum of \$2125.00 due by promissory note made by Defendant on to-wit, July 19, 1947, and payable to George Stone and endorsed by the said George Stone to the Plaintiff on to-wit, July 9, 1947, being before maturity of any monthly installment, said promissory note being payable in monthly installments of \$125.00, the first of said installments being due and payable on to-wit, March 10, 1948 and each succeeding installment being due and payable on or before each succeeding month thereafter with interest thereon from to-wit, July 9, 1947.

And Plaintiff avers that as a part of said instrument defendant waived her right to exemptions as to personal property and agreed to pay a reasonable attorney's fee, which it also claims, to-wit, \$271.50.

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

also arising to-wit: \$257.20.

Properly and agreed to have reasonable attorney's fees, which it
next defendant waived her right to exemptions as to personal

and Plaintiff were that as a debt of said Plaintiff

July 2, 1945.

each succeeding month thereafter with interest thereon from to-wit:
and each succeeding installment being due and payable on or before
said installments being due and payable on to-wit: March 10, 1946

here being payable in monthly installments of \$152.00; the time of

being before maturity of any monthly installment, said promissory

by the said George Stone and people to Plaintiff on to-wit: July 2, 1945.

to-wit: July 10, 1945, and people to George Stone and people

in \$152.00 due promissory note made by defendant

to-wit: Plaintiff claims on the defendant

the complaint by said Court.

With leave of the Court the said being

E. M. ZEIDMAN
ATTORNEY FOR PLAINTIFF

COUNTY

BALDWIN

A L A B A M A

1458

Plaintiff,
vs
Defendant.

REGAL ANDRE, INC., a corporation,

ROSE WOODALL,

AMENDMENT TO COMPLAINT

AMENDMENT TO COMPLAINT

ROSE WOODALL,

Defendant.

1458

AP

A L A B A M A

Plaintiff,

Defendant.

BALDWIN

COUNTY

REGAL ANDRE, INC., a cor-

CIRCUIT COURT

CIRCUIT COURT

Regal Ardu, Inc
a corporation Plaintiff

in the Circuit Court
Baldwin County
Case #1458

vs
Rose Wordall

Defendant

Demures
Comes the Plaintiff, Regal Ardu, Inc
and demurs ^{separately and generally} to the fourth plea
filed by the defendant and for grounds
of demure assigns the following both
separately and generally to wit:

1. For that said plea does not state a
cause of action
2. For that the averment that the said
E. M. Johnson and A. C. Harris made
false representations to the defendant is
a conclusion of the pleader.
3. For aught that appears that said
plea fails to aver either set off or
recoupment

E. M. Johnson
Attorney for Plff

RECORDED

Demurrer

1458

Filed: June 28, 1958.

Jeffrey J. Masland
Judge.