

The State of Alabama,
BALDWIN COUNTY

CIRCUIT COURT. (Equity)

July Term, 1941

July Term, 1941

Mrs. Elizabeth Combs, Complainant

No. 557 vs.

Joe E. Brown & Daniel E. Brown, Respondents

PL 7-55-41
Receipt 624

BILL OF COSTS

Table with 4 columns: REGISTER'S FEES, AMOUNT, SHERIFF'S FEES, AMOUNT. It details various court fees, including summons, writs, and judgments, with handwritten totals and annotations.

MARIE GUENTHER,
Complainant,

vs

JOSEPH E. BROWN and
GRACE E. BROWN,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

BILL OF COMPLAINT

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

PART ONE

Comes now Marie Guenther and respectfully shows unto your Honor, that she is a resident of Baldwin County, Alabama residing at Foley, Alabama, and that the Respondent Joseph E. Brown is over the age of twenty one years and a resident of Baldwin County, Alabama residing in Foley therein, and that the Respondent Grace E. Brown is also over the age of twenty one years and a resident of Baldwin County, Alabama, residing at Foley, Baldwin County, Alabama.

PART TWO

1. Your Complainant avers that on the 24th day of March, 1924, the said Respondent, who are husband and wife, made, executed and delivered to Emil Johnson their mortgage deed as security for the sum of Two Thousand Dollars (\$2,000.00), then due from the Respondent to the said Emil Johnson, in and by said mortgage deed, the Respondents conveyed to Emil Johnson the following described real estate in Baldwin County, Alabama, to-wit:

The North Thirty-two and One-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama.....

2. Said mortgage was thereafter and on the 27th day of May, 1924, duly recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Book 31 at page 21 thereof.

3. That in one respect, the said mortgage was incorrect and erroneous and did not reflect the intent of any of the parties thereto in that the piece or parcel of land therein described as "The north thirty-two and one-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" was by reason of an error on the part of the person who wrote said mortgage, erroneously described and included therein, although the Respondents did not own and claim the said particular piece of land or lots and it was the intention of the Respondents to mortgage and convey and the intent of the mortgagee Emil Johnson to take a

mortgage upon another and different piece or parcel of land which the Respondents did own and which is described as[✓] and should have been included in said mortgage as "That certain piece or parcel of land beginning at the Northwest corner of Lot No. 3 in Block 5 of the town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block 5 in the town of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East".

4. That this was a mistake on the part of the scrivener who drew said mortgage deed and consisting in the erroneously writing "The North Thirty-two and One-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town of record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" and that the said mistake constituted a material mistake on the part of both Emil Johnson and the Respondents and as a consequence thereof, said mortgage deed did not and do not truly reflect the intention of any of the parties to it and Complainant avers that said mistake was not discovered by or known to any of the parties until very recently.

5. That thereafter and on October 2, 1933, Emil Johnson foreclosed said mortgage under the power of sale contained therein and because of default in the payment of the indebtedness secured thereby and a foreclosure deed was made and executed by the auctioneer conducting said foreclosure sale, to Emil Johnson in which the same error of description was repeated, said deed being recorded in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 55 NS at page 126 thereof.

6. Complainant further avers that by reason of said material mistake neither the said mortgage deed nor the said foreclosure deed truly reflect the intention of any of the parties thereto, in that, the land intended to be mortgaged and conveyed was not properly described therein, while other and different land, which the Respondents did not even own was included and conveyed therein and thereby the Complainant avers that in equity to her said mistake should be corrected and said mortgage deed and foreclosure deed should be reformed so as to exclude therefrom the properties not owned by the Respondents at that time and to include therein instead "That piece or parcel of land beginning at the Northwest Quarter of Lot No. 3 in Block 5 of the Town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block

5 in the town of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East".

7. Complainant further avers that by means of a Warranty Deed from the mortgagee in the mortgage above referred to that the said mortgagee Emil Johnson and his wife Selma Johnson did by Warranty Deed dated June 10, 1935 for a valuable consideration conveyed this same property to your Complainant Marie Guenther which said deed is recorded in Deed Book 57 NS, page 576 of the Probate Records of Baldwin County, Alabama thereof, and that in the said conveyance the same mistake was made as in the original mortgage deed by the Respondents and the same error in description was made in this deed as was in the foreclosure deed dated October 2nd, 1933 which is recorded in Deed Book 55 NS at page 126 of the Probate Records of Baldwin County, Alabama, and that by the said conveyance your Complainant Marie Guenther is the holder of all the right, title, interest and equity of Emil Johnson as obtained under the original mortgage deed.

PRAYER FOR PROCESS

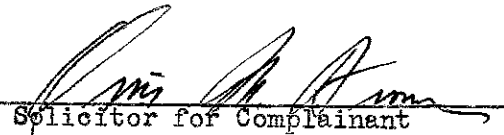
WHEREFORE, your Complainant prays that your Honor will grant to her the writ of summons of the State of Alabama directed to the Respondents Joseph E. Brown and Grace E. Brown, commanding them and each of them to appear in this Honorable Court and plead to, demur or answer this bill of complaint and to stand to and abide such order and decree as may be entered therein, and your Complainant will ever pray & c.

PRAYER FOR RELIEF

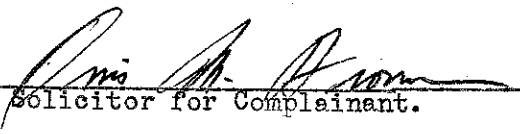
Your Complainant further prays that upon a final hearing of this cause, your Honor will make and enter a decree reforming both the said real estate mortgage hereinabove mentioned and described and the foreclosure deed hereinabove mentioned and described and the Warranty Deed hereinabove mentioned and described by excluding the improper description as "The north thirty two and one-third (32 1/3) feet of Block Five (5) in the town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" and by including therein and inserting the proper description, to-wit: "That certain piece or parcel of land beginning at the Northwest corner of Lot No. 3 in Block 5 of the town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block 5 in the town

of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East", and that your Complainant may have such other and further relief in the premises as may be just and equitable.

And the Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part toward the making of the decree which she seeks just and equitable, with regard to the Respondents.


Solicitor for Complainant

FOOT NOTE: The Respondents Joseph E. Brown and Grace E. Brown are hereby requested to answer the allegations of Part Two of the above bill of complaint from Paragraph #1 to #7, both inclusive, but not under oath, oath to answer being hereby expressly waived.


Solicitor for Complainant.

MARIE GUENTHER,

Complainant

-vs-

JOSEPH E. BROWN, GRACE E.
BROWN, EMIL JOHNSON and
SELMA JOHNSON,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

TO THE REGISTER IN CHANCERY, CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA:

We, Emil Johnson and Selma Johnson, co-respondents with Joseph E. Brown and Grace E. Brown in the above styled cause hereby accept service on the amended bill of complaint filed on the 5 day of March, 1940 in the Circuit Court of Baldwin County, Alabama, in Equity.

WITNESS:

Virginia E. Crenshaw

Emil Johnson
Emil Johnson
Selma Johnson
Selma Johnson

MARIE GUENTHER,)	
)	
Complainant,)	IN THE CIRCUIT COURT OF BALDWIN
)	
VS.)	COUNTY, ALABAMA.
)	
JOSEPH E. BROWN, GRACE E.)	In Equity.
BROWN, EMIL JOHNSON and)	
SELMA JOHNSON,)	
)	
Respondents.))	

This cause coming on to be heard is submitted for decree on demurrer to amended bill of complaint, and upon consideration thereof, I am of the opinion that said demurrer is not well taken, and should be overruled.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that said demurrer to said amended bill of complaint be, and the same hereby is, overruled.

Respondents are allowed thirty days from the date hereof within which to answer said amended bill of complaint.

Done at Monroeville, Alabama, this the 29th day of August, 1940.

F. M. Lane

 Judge

CIRCUIT COURT COMPLAINT

Printed By Baldwin Times, Bay Minette, Ala.

MARIE GUENTHER

Complainant,

Vs.

JOSEPH E. BROWN, GRACE BROWN, EMIL

JOHNSON & SELMA JOHNSON Respondent.

In the Circuit Court.

In Equity No. 554.

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondents

Joseph E. Brown and Grace Brown

by the Sheriff of Baldwin County, on the 12th day of July

1940 and by Waiver of Emil Johnson and Selma Johnson

And it further appears to the Register, that the said Joseph E. Brown, Grace

Brown, Emil Johnson and Selma Johnson

the Respondents, having to the date hereof, failed to plead, demur to or answer the Bill of Complaint filed in this cause, it is now, therefore,

on motion of Orvis M. Brown Solicitors

for Complainant, ordered, and decreed by the Register that the Bill of Complaint in this cause be,

and it hereby is, in all things taken as confessed against the said Joseph E. Brown,

Grace Brown, Emil Johnson and Selma Johnson

This 8 day of November, 1940

R. S. Duch

Register.

MARIE GUENTHER,

Complainant)

vs.)

JOSEPH E. BROWN, GRACE
E. BROWN, ET AL,)

Respondents)

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

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AND TO THE HONORABLE F. W. HARE, AS JUDGE THEREOF,

SITTING IN EQUITY:

Now come the respondents, Joseph E. Brown and Grace E. Brown, each separately and severally, and show unto your Honor as follows:

That on the 11th day of November, 1940, your Honor entered a final decree in the above said cause, granting the relief prayed for in said bill of complaint as amended, basing said decree upon a decree pro confesso theretofore entered in said cause at the instance of the complainant by the Register of said Court.

That prior to the said decree pro confesso the said respondents had filed demurrers to the bill of complaint as amended, which demurrers were taken under submission by the Court regularly and in due form; that on or about the 29th day of August, 1940, a decree was entered overruling said demurrers and these respondents were given twenty days within which to answer said bill of complaint as amended. Neither said respondents nor their solicitors of record had any notice whatever of the Court's decree in overruling said demurrers and knew nothing of such action on the part of the Court until the latter part of November, 1940, when solicitors of record for said respondents called up the Register of

the Court at Bay Minette, Alabama and asked if the above said demurrers had been ruled upon, and very much to their surprise were informed the demurrers had been ruled upon adversely on August 29, 1940, that a decree pro confesso had been subsequently entered, and that the final decree of the court above referred to had been filed, said decree bearing date of November 11, 1940 and filed November 12, 1940. Solicitors for respondent fully expected - as was the custom in courts in which they had practiced - that they would be given notice of the ruling upon said demurrers in view of the fact that they were under submission and the solicitors of record for said respondents had no direct means of otherwise knowing of the ruling, they being located in Mobile County, Alabama, and not having access to the records of Baldwin County, Alabama.

Said respondents state that they were taken very much by surprise at such decree being entered and fully intended to answer the bill of complaint as amended and controvert the allegations thereof upon notice that such demurrers had been oferruled upon adversely to them, and intended to file an answer respecting the propositions and refuting the right to the relief prayed, as set out in the answer hereto attached, which answer they aver, in their opinion, constitutes and will show a meritorious defense to said action.

Wherefore, said respondents, each separately and severally, pray that your Honor will set aside the final decree bearing date of November 11, 1940 and filed on November 12, 1940, granting unto the complainant the relief prayed, and that your Honor will also set aside the decree pro confesso for and on account of the reasons above stated, and will allow said respon-

dents to file the answer hereto attached to said bill of complaint as amended that they may have their day in court to present evidence to support said answer.

Respectfully submitted,

Robt E Gordon

of Gordon, Leyle, Lusk & Gordon

SOLICITORS FOR RESPONDENTS,
JOSEPH E. BROWN and GRACE
E. BROWN.

MARIE GUENTHER,)	
)	
Complainant)	
)	
vs.)	IN THE CIRCUIT COURT OF
)	BALDWIN COUNTY, ALABAMA.
JOSEPH E. BROWN, GRACE)	
E. BROWN, ET AL,)	NO. _____ IN EQUITY.
)	
Respondents)	

Now come the respondents, Joseph E. Brown and Grace E. Brown, each separately and severally, and for answer to the bill of complaint as amended and filed in the above said cause say as follows:

To Part One or paragraph One

That each allegation therein is true to the best of their knowledge, information and belief.

To Part Two or paragraph Two, Subdivisions 1 and 2

That the allegations therein contained are true to the best of their knowledge, information and belief.

To Part Two or paragraph Two, Subdivision 3

Said respondents deny each and every material allegation of said subdivision and demand strict proof thereof.

To Part Two or paragraph Two, Subdivision 4

Said respondents deny each and every material allegation of said subdivision.

To Part Two or paragraph Two, Subdivision 5

Said respondents deny each and every material allegation of said subdivision.

To Part Two or paragraph Two, Subdivision 6

That said respondents admit there was an at-

tempt to foreclose said mortgage but that same was not done under and according to the powers vested in the mortgagee by said mortgage, and admit that the description as contained in said notice of foreclosure was the same as that contained in the original mortgage and in the notice of foreclosure sale and in the deed executed by the auctioneer conducting said sale, which was recorded in the office of the Judge of Probate of Baldwin County, Alabama, as alleged, and deny that said description was erroneous.

To Part Two or paragraph Two,
Subdivision 7

The said respondents deny each and every allegation in said subdivision and demand strict proof thereof.

To Part Two or paragraph Two,
Subdivision 8

Said respondents admit that complainant bought from respondent Emil Johnson the property as described in the mortgage, in the notice of foreclosure sale, and in the deed by the auctioneer to said Emil Johnson, but expressly deny that she purchased at said sale any other land than that described in the above said papers, which was described in the conveyance from the said Emil Johnson to her, and expressly deny that she intended to purchase from the respondents, who intended to convey to her, the property which is described as the north thirty-two and one-third feet of Lot 3 in Block 5, in the Town of Foley, etc.; and expressly deny that the said respondent Emil Johnson and wife executed and delivered to her their warranty deed, intending thereby to convey to her any other property than that expressly described in their deed to her or that any mistake was

repeated in the drafting of said deed or had been made in the mortgage upon which said deed was based and in the foreclosure deed above referred to, or that as a consequence of any mistake or series of mistakes the complainant bought from said Emil Johnson, from whom she received a deed executed by him and his wife; and expressly deny that complainant has any rights in equity to have the description in said instruments or either of them changed or corrected, or that the description in said instruments or either of them should be reformed by striking from them the description of the property described therein and in lieu thereof insert the north thirty-two and one-third feet of Lot 3 in Block 5, in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate in said County, being a subdivision of a part of Sections 28 and 29, in Township 7 South, Range 4 East, in Baldwin County, Alabama.

To Part Two or paragraph Two,
Subdivision 9

Said respondents deny that they have ever been requested by the complainant or demanded by her to correct said mistake by executing to her a quit-claim deed to said property and demand strict proof.

For further answer to the bill of complaint as amended as a whole said respondents allege that the complainant purchased and intended to purchase the property as described in her deed from the respondent Emil Johnson and wife, and at the time of so purchasing same did not know or claim that there was any mistake in the description, and that she bought same upon the description contained in the mortgage, in the notice of foreclosure,

in the auctioneer's deed to her grantor and as contained in the deed from Emil Johnson to her, and that complainant got exactly what she intended to get as to the said description, and that there was no mutual mistake as between her and these respondents. That said property having been advertised as described in said mortgage, these respondents were not given legal notice that any other property except that described in said mortgage would be foreclosed or sold, and, therefore, were not given the privilege of being present to bid upon any foreclosure of the property described as the north thirty-two and one-third feet of Lot 5, Block 5 of the Town of Foley.

Wherefore, respondents having fully answered said bill of complaint as amended, pray that same be dismissed and complainant taxed with the costs therein incurred.

Robert E. Gordon
of Gordon, Lynch, Lynch & Gordon.
SOLICITORS FOR RESPONDENTS JOSEPH
E. BROWN and GRACE E. BROWN

MARIE GUENTHER,

Complainant,

vs.

JOSEPH E. BROWN, AND GRACE E. BROWN,

Respondents.

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint; ~~Amended Bill~~ of Complaint; Decree overruling demurrer to amended bill; Motion for Decree Pro Confesso; Decree Pro Confesso on Personal Service;

and in behalf of Defendant upon ~~Demurrer to Complaint; Decree sustaining Demurrer;~~ Demurrer to Amended Bill; Waiver;

R. S. Duch

Register.

The State of Alabama,
Baldwin County.

{ No. 554 CIRCUIT COURT IN EQUITY.

MARIE GUENTHER Complainant

vs.

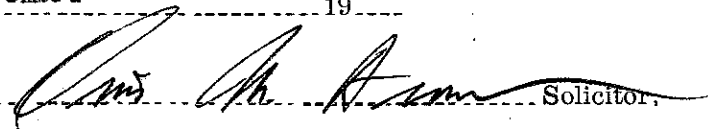
JOSEPH E. BROWN, GRACE BROWN, EMIL JOHNSON and
SELMA JOHNSON Defendant

Motion is hereby made for a Decree Pro Confesso against Joseph E. Brown, Grace Brown,

Emil Johnson and Selma Johnson Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant S; and that said summons was duly served according to law, and that said Defendants ha ve failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This day of November 19⁴⁰

 Solicitor.

STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY.

No. _____ Term, 193_____

MARIE GUENTHER, _____, Complainant

Vs.

JOSEPH E. BROWN, ET AL., _____, Defendant

To R. S. DUCK, _____, Register :

In the above stated cause a Decree Pro Confesso having been taken against the Defendant, and evidence having been taken, and the cause being ready for submission for final decree, and no defense having been interposed, the Complainant, by Orvis M. Brown

_____ Solicitors of record, now files with the Register of this Court this written request to deliver the papers in this cause to the Judge for final decree in vacation.


Solicitor for Complainant.

CIRCUIT COURT COMPLAINT

Printed By Baldwin Times, Bay Minette, Ala.

MARIE GUENTHER

Complainant,

Vs.

JOSEPH E. BROWN, GRACE BROWN, EMIL

JOHNSON & SELMA JOHNSON Respondent.

In the Circuit Court.

In Equity No. 554

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondents

Joseph E. Brown and Grace Brown

by the Sheriff of Baldwin County, on the 12th day of July

1940 and by Waiver of Emil Johnson and Selma Johnson

And it further appears to the Register, that the said Joseph E. Brown, Grace

Brown, Emil Johnson and Selma Johnson

the Respondents, having to the date hereof,

failed to plead, demur to or answer the Bill of Complaint filed in this cause, it is now, therefore,

on motion of Orvis M. Brown Solicitors

for Complainant, ordered, and decreed by the Register that the Bill of Complaint in this cause be,

and it hereby is, in all things taken as confessed against the said Joseph E. Brown,

Grace Brown, Emil Johnson and Selma Johnson

This 8 day of November, 1940

R. S. Durb

Register.

The State of Alabama, BALDWIN COUNTY

CIRCUIT COURT. (Equity)

July Term, 1941

Marie Keuther, Complainant

No. 554 vs.

Joe E. Brown & Donald E. Brown, Respondents

Handwritten notes: pl 7-25-41, Receipt 624

BILL OF COSTS

Table with columns: REGISTER'S FEES, AMOUNT, SHERIFF'S FEES, AMOUNT. Includes a SUMMARY OF FEES, COSTS, AND JUDGMENT section at the bottom right.

MARIE GUENTHER,

Complainant,

VS.

JOSEPH E. BROWN, GRACE E.
BROWN, EMIL JOHNSON and
SELMA JOHNSON,

Respondents.)

IN THE CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

In Equity.

This cause coming on to be heard is submitted for decree on demurrer to amended bill of complaint, and upon consideration thereof, I am of the opinion that said demurrer is not well taken, and should be overruled.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that said demurrer to said amended bill of complaint be, and the same hereby is, overruled.

Respondents are allowed thirty days from the date hereof within which to answer said amended bill of complaint.

Done at Monroeville, Alabama, this the 29th day of August, 1940.


Judge

in the auctioneer's deed to her grantor and as contained in the deed from Emil Johnson to her, and that complainant got exactly what she intended to get as to the said description, and that there was no mutual mistake as between her and these respondents. That said property having been advertised as described in said mortgage, these respondents were not given legal notice that any other property except that described in said mortgage would be foreclosed or sold, and, therefore, were not given the privilege of being present to bid upon any foreclosure of the property described as the north thirty-two and one-third feet of Lot 3, Block 5 of the Town of Foley.

Wherefore, respondents having fully answered said bill of complaint as amended, pray that same be dismissed and complainant taxed with the costs therein incurred.

Robert E. Gordon

of Gordon, Lynch, Lynch & Gordon

SOLICITORS FOR RESPONDENTS JOSEPH
E. BROWN and GRACE E. BROWN

The State of Alabama,
Baldwin County.
CIRCUIT COURT, IN EQUITY

GUENTHER,

Vs.

BROWN , ET AL. ,

**REQUEST FOR DECREE IN
VACATION**

Filed November 8, 1940

R.S. Duch

Register.

Recorded in _____ Record

Vol. _____ Page _____

Register.

No. 554

Page

The State of Alabama,
Baldwin County.

CIRCUIT COURT, IN EQUITY

MARIE GÜENTHER

vs.

JOSEPH E. BROWN, GRACE BROWN,

EMIL JOHNSON and SELMA JOHNSON

**MOTION FOR DECREE PRO
CONFESSO ON PERSONAL SERVICE**

Filed *November 8*, 19*40*

R. S. Duch

Register.

Recorded in _____ Record,

Vol. _____ Page _____

Register.

RECORDED

No. _____

The State of Alabama
BALDWIN COUNTY

IN EQUITY
Circuit Court of Baldwin County

MARIE FUENTHER,

Complainant,

vs.

JOSEPH E. BROWN AND GRACE E.

BROWN, Respondents.

NOTE OF TESTIMONY

Filed in Open Court this 8th

day of 2nd November 1950

R. J. Deuch

REGISTER

Brenton,

25-

Brown

Station to set aside

Deer

Field Number 30,1940
R.S. Duet, Register

RECORDED

Reverse on Member

to
Commenced Page

Filed August 30, 1940
R.S. Smith, Register

I certify that the within is a true and correct Bill of Costs in the within styled cause.

ATTEST:

Register Circuit Court, Baldwin County, Ala.

Received payment this _____ day of _____ 194_____

ATTEST:

Register Circuit Court, Baldwin County, Ala.

No. 534

Page _____

The State of Alabama,
BALDWIN COUNTY

CIRCUIT COURT

M. H. ...

vs.

Plaintiff

...

Defendant

EQUITY COST BILL

Term, 1941

Fee Book _____, Page _____

Plaintiff's Attorney.

Defendant's Attorney.

CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.
IN EQUITY

MARIE GUMPHREY

Complainant,

vs.

JOSEPH E. BROWN, GRACE BROWN,

MILL JOHNSON & SELMA JOHNSON

Respondent.

DECREE PRO CONFESSO ON
PERSONAL SERVICE.

Issued this 11th day of November,

1940

Register.

R.S. Duce

MARIE GUENTHER,

Complainant,

vs.

Joseph E. Brown, Grace Brown,
Emil Johnson and Selma Johnson,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

DECREE

This cause coming on to be heard on the amended Bill of Complaint, the demurrers of the respondents thereto, the prior decree of this Court overruling said demurrers and decree pro confesso against said respondents heretofore entered by the Register, was submitted to the Court and upon consideration thereof, the Court finds:

That it has jurisdiction of the persons of the parties and of the subject matter of the cause; that the allegations of the amended Bill of Complaint are true and that the complainant is entitled to relief as therein prayed.

It is, therefore, ORDERED, ADJUDGED and DECREED: That the mortgage deed made and executed by the respondents Joseph E. Brown and Grace E. Brown to the respondent Emil Johnson, dated March 24, 1924 and recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book 31 at Page 21 thereof be, and the same hereby is, reformed by striking therefrom the description of the land therein conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley, as per plat of said town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29) in Township Four (4) South, Range Four (4) East, Baldwin County, Alabama", and by inserting in said mortgage deed in lieu thereof the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama".

That the foreclosure deed from respondents Joseph E. Brown and Grace E. Brown by A. H. Crovatt, auctioneer and attorney-in-fact for the said Joseph E. Brown and Grace E. Brown, which said foreclosure deed was dated October 2nd, 1935 and recorded in the

the office of the Judge of Probate, Baldwin County, Alabama in Deed Book 55 at Page 126 thereof, be and the same hereby is reformed by striking from said foreclosure deed the description of the land thereby conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley as per plat of said County in the Town of Foley, Alabama on record in the office of the Judge of Probate in said county, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29), Township Seven (7) South of Range Four (4) East, Baldwin County, Alabama" and by inserting in said foreclosure deed in lieu thereof, the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama."

That the warranty deed from the respondents Emil Johnson and Selma Johnson, to the complainant, Marie Guenther, which is dated June 10th, 1935 and recorded in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 57 at Page 576 thereof, be, and the same hereby is reformed by striking therefrom the description of the land thereby conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley, Alabama as per plat of record of said county in the Town of Foley, Alabama on record in the office of the Judge of Probate of said county, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29) in Township Seven (7) South of Range Four (4) East, Baldwin County, Alabama" and by inserting in said warranty deed, in lieu thereof, the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama."

That the Register of this Court file in the office of the Judge of Probate of Baldwin County, Alabama a certified copy of this decree and cause the same to be indexed on both the direct and reverse indices of the records of said office, as a conveyance from the respondents, Joseph E. Brown, Grace E. Brown, Emil Johnson and Selma Johnson, to the complainant, Marie Guenther and tax

the cost of such recording as a part of the costs of this case.

That the respondents pay the costs of this action, taxed
at \$.

Dated this 11th day of November, 1940.

F. W. HARE,

Judge.

STATE OF ALABAMA,)
BALDWIN COUNTY.)

I, R. S. DUCK, Register of the Circuit Court, in Equity, of Baldwin County, Alabama, hereby certify that the above and foregoing is a true and correct copy of the decree rendered in the above cause by the Judge of the Circuit Court, on the 11th day of November; the original decree remaining on file and enrolled in this office.

WITNESS my hand and seal of said Court, this 13th day of November, 1940.

R. S. DUCK, Register.

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

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon JOSEPH E. BROWN and GRACE E. BROWN,

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

MARIE GUENTHER

against said JOSEPH E. BROWN and GRACE E. BROWN,

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, R. S. Duck, Register of said Circuit Court, this 29th day of June, 1939.

R. S. DUCK
clerk, - register

By [Signature] Deputy, Register

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

MARIE GÜENTHER,
 Complainant
 vs.
 JOSEPH E. BROWN and
 GRACE E. BROWN,
 Respondents

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

Now come the respondents, Joseph E. Brown and Grace E. Brown, each separately and severally, and demur to the bill of complaint as filed in this cause and as grounds for such demurrer assign the following:

1. There is no equity in the said bill of complaint.
2. Because for aught that appears in said bill of complaint, the respondents have not been requested to correct the alleged error in description.
3. Because for aught that appears in said bill of complaint the respondents would have been perfectly willing to correct the alleged errors upon request by the complainant.
4. For aught that appears in said bill of complaint the respondents, nor either of them, were ever given an opportunity to correct the alleged errors in the mortgage prior to the filing of this bill of complaint.
5. Because for aught that appears in said bill of complaint the north thirty-two and one-third feet of Block Five in the Town of Foley may embrace the north thirty-two and one-third feet of Lot Three in Block Five in the Town of Foley.
6. Because for aught that appears in said bill of complaint the land which should have been properly described in said mortgage is embraced in the description alleged in said mortgage.

7. Because it affirmatively appears from the allegation of the bill of complaint that this complainant, when she purchased said property from the purchaser at the foreclosure, did not know there was an error in the description of said property, and she purchased upon the description contained in the foreclosure deed itself.

8. Because it affirmatively appears from the bill of complaint that there was no mutual mistake as to the description as between the party complainant and the respondents, the bill affirmatively averring that the complainant purchased without knowledge that there was a mistake.

9. Because there is a non-joinder of proper and necessary parties in that said bill seeks to correct the description as made in the deed executed by Emil Johnson and his wife, Selma Johnson, and neither of them is made a party respondent to this bill.

10. Because said bill of complaint fails to make Joseph E. Brown and Grace E. Brown parties respondent thereto.

11. Because said bill of complaint in its prayer for process fails to ask that Joseph E. Brown and Grace E. Brown be made parties respondent to said bill of complaint.

The respondents, Joseph E. Brown and Grace E. Brown, each separately and severally, demur also to so much of the bill of complaint as seeks to correct the description in the foreclosure deed set out therein, and as grounds therefor herewith assign all of the foregoing grounds of demurrer numbered from 1 to 11, both inclusive, as filed to the bill of complaint as a

whole, and also add the following grounds:

(a) Because there never was any notice given that the property as contained in the description, which is alleged to have been the correct description of said property, would be sold.

(b) Because there is no averment showing that notice that the north thirty-two and one-third feet of Lot Three of Block Five in the Town of Foley was to be sold at a foreclosure sale.

(c) Because there never has been a foreclosure sale, so far as the bill of complaint shows, of the north thirty-two and one-third feet of Lot Three of Block Five in the Town of Foley.

Gordon, Lutz, Lutz & Gordon
SOLICITORS FOR RESPONDENTS

MARIE GUENTHER,
Complainant,
vs
JOSEPH E. BROWN and
GRACE E. BROWN,
Respondents.

IN THE CIRCUIT COURT
OF BALDWIN COUNTY,
ALABAMA, IN EQUITY
NO. 554

DECREE

This cause coming on to be heard, is submitted on the demurrer to the bill of complaint, and upon consideration I am of the opinion that the demurrer is well taken.

It is therefore ordered, adjudged and decreed that said demurrer be, and the same hereby is, sustained. Complainant is allowed thirty days from this date within which to amend the bill.

This 7th day of March, 1940.



Judge

MARIE GUENTHER,
Complainant,
vs
JOSEPH E. BROWN and
GRACE E. BROWN,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

BILL OF COMPLAINT

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

PART ONE

Comes now Marie Guenther and respectfully shows unto your Honor, that she is a resident of Baldwin County, Alabama residing at Foley, Alabama, and that the Respondent Joseph E. Brown is over the age of twenty one years and a resident of Baldwin County, Alabama residing in Foley therein, and that the Respondent Grace E. Brown is also over the age of twenty one years and a resident of Baldwin County, Alabama, residing at Foley, Baldwin County, Alabama.

PART TWO

1. Your Complainant avers that on the 24th day of March, 1924, the said Respondent, who are husband and wife, made, executed and delivered to Emil Johnson their mortgage deed as security for the sum of Two Thousand Dollars (\$2,000.00), then due from the Respondent to the said Emil Johnson, in and by said mortgage deed, the Respondents conveyed to Emil Johnson the following described real estate in Baldwin County, Alabama, to-wit:

The North Thirty-two and One-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama.....

2. Said mortgage was thereafter and on the 27th day of May, 1924, duly recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Book 31 at page 21 thereof.

3. That in one respect, the said mortgage was incorrect and erroneous and did not reflect the intent of any of the parties thereto in that the piece or parcel of land therein described as "The north thirty-two and one-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" was by reason of an error on the part of the person who wrote said mortgage, erroneously described and included therein, although the Respondents did not own and claim the said particular piece of land or lots and it was the intention of the Respondents to mortgage and convey and the intent of the mortgagee Emil Johnson to take a

mortgage upon another and different piece or parcel of land which the Respondents did own and which is described as and should have been included in said mortgage as "That certain piece or parcel of land beginning at the Northwest corner of Lot No. 3 in Block 5 of the town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block 5 in the town of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East".

4. That this was a mistake on the part of the scrivener who drew said mortgage deed and consisting in the erroneously writing "The North Thirty-two and One-third (32 1/3) feet of Block Five (5) in the Town of Foley, as per plat of said Town of record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" and that the said mistake constituted a material mistake on the part of both Emil Johnson and the Respondents and as a consequence thereof, said mortgage deed did not and do not truly reflect the intention of any of the parties to it and Complainant avers that said mistake was not discovered by or known to any of the parties until very recently.

5. That thereafter and on October 2, 1933, Emil Johnson foreclosed said mortgage under the power of sale contained therein and because of default in the payment of the indebtedness secured thereby and a foreclosure deed was made and executed by the auctioneer conducting said foreclosure sale, to Emil Johnson in which the same error of description was repeated, said deed being recorded in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 55 NS at page 126 thereof.

6. Complainant further avers that by reason of said material mistake neither the said mortgage deed nor the said foreclosure deed truly reflect the intention of any of the parties thereto, in that, the land intended to be mortgaged and conveyed was not properly described therein, while other and different land, which the Respondents did not even own was included and conveyed therein and thereby the Complainant avers that in equity to her said mistake should be corrected and said mortgage deed and foreclosure deed should be reformed so as to exclude therefrom the properties not owned by the Respondents at that time and to include therein instead "That piece or parcel of land beginning at the Northwest Quarter of Lot No. 3 in Block 5 of the Town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block

5 in the town of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East².

7. Complainant further avers that by means of a Warranty Deed from the mortgagee in the mortgage above referred to that the said mortgagee Emil Johnson and his wife Selma Johnson did by Warranty Deed dated June 10, 1935 for a valuable consideration conveyed this same property to your Complainant Marie Goenther which said deed is recorded in Deed Book 57 NS, page 576 of the Probate Records of Baldwin County, Alabama thereof, and that in the said conveyance the same mistake was made as in the original mortgage deed by the Respondents and the same error in description was made in this deed as was in the foreclosure deed dated October 2nd, 1933 which is recorded in Deed Book 55 NS at page 126 of the Probate Records of Baldwin County, Alabama, and that by the said conveyance your Complainant Marie Goenther is the holder of all the right, title, interest and equity of Emil Johnson as obtained under the original mortgage deed.

PRAYER FOR PROCESS

WHEREFORE, your Complainant prays that your Honor will grant to her the writ of summons of the State of Alabama directed to the Respondents Joseph E. Brown and Grace M. Brown, commanding them and each of them to appear in this Honorable Court and plead to, demur or answer this bill of complaint and to stand to and abide such order and decree as may be entered therein, and your Complainant will ever pray & c.

PRAYER FOR RELIEF

Your Complainant further prays that upon a final hearing of this cause, your Honor will make and enter a decree reforming both the said real estate mortgage hereinabove mentioned and described and the foreclosure deed hereinabove mentioned and described and the Warranty Deed hereinabove mentioned and described by excluding the improper description as "The north thirty two and one-third (32 1/3) feet of Block Five (5) in the town of Foley, as per plat of said Town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections 28 and 29 in Township 7 South of Range 4 East, Baldwin County, State of Alabama" and by including therein and inserting the proper description, to-wit: "That certain piece or parcel of land beginning at the Northwest corner of Lot No. 3 in Block 5 of the town of Foley, run South 32 feet and 4 inches, thence East 62 and one-half feet, thence North 32 feet and 4 inches, thence West 62 and one-half feet to place of beginning, being the North 32 and one-third feet of Lot 3 in Block 5 in the town

of Foley, Alabama, being a subdivision of a part of Sections 28 and 29 in Township 7 South, Range 4 East", and that your Complainant may have such other and further relief in the premises as may be just and equitable.

And the Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part toward the making of the decree which she seeks just and equitable, with regard to the Respondents.

Olivia A. Brown
Solicitor for Complainant

FOOT NOTE: The Respondents Joseph E. Brown and Grace E. Brown are hereby requested to answer the allegations of Part Two of the above bill of complaint from Paragraph #1 to #7, both inclusive, but not under oath, oath to answer being hereby expressly waived.

Olivia A. Brown
Solicitor for Complainant.

Olivia A. Brown

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(COPY)

MARIE GUENTHER,)	IN THE CIRCUIT COURT OF
Complainant,)	BALDWIN COUNTY, ALABAMA.
-vs-)	NO. _____ IN EQUITY.
JOSEPH E. BROWN, GRACE)	
E. BROWN, ET AL.,)	
Respondents.)	

Now come the respondents, Joseph E. Brown and Grace E. Brown, each separately and severally, and for answer to the bill of complaint as amended and filed in the above said cause say as follows:

To Part One or Paragraph One

That each allegation therein is true to the best of their knowledge, information and belief.

To Part Two or Paragraph Two,

Subdivisions 1 and 2

That the allegations therein contained are true to the best of their knowledge, information and belief.

To Part Two or Paragraph Two,
Subdivision 3

Said respondents deny each and every material allegation of said subdivision and demand strict proof thereof.

To Part Two or Paragraph Two,
Subdivision 4

Said respondents deny each and every material allegation of said subdivision.

To Part Two or Paragraph Two,
Subdivision 5

Said respondents deny each and every material allegation of said subdivision.

To Part Two or Paragraph Two,
Subdivision 6

That said respondents admit there was an attempt to foreclose said mortgage but that same was not done under and according to the powers vested in the mortgagee by said mortgage, and admit that the description as contained in said notice of foreclosure was the same as that contained in the original mortgage and in the notice of foreclosure sale and in the deed executed by the auctioneer conducting said sale, which was recorded in the office of the Judge of Probate of Baldwin County, Alabama, as alleged, and deny that said description was erroneous.

RECORDED

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Primer

Dee Barker
Kummersfeld

Filed March 9, 1940
R.S. Duce, Register

THE PUBLIC RECORDS
OFFICE OF THE STATE OF TEXAS
AT DALLAS

County of Tarrant

1940

Book 10, Page 100

1940

1940

Original
Baldwin County

Jos. E. Brown and
Grace E. Brown,
Foley, Ala.

Circuit Court of Baldwin County
IN EQUITY

No. 554

Summons

MARIE GUENTHER,
Complainant

VS.

JOSEPH E. BROWN and GRACE
E. BROWN,
Respondents.

ORRIS M. BROWN
Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA,
Baldwin County

Received in office this 30th

day of June 1939
W. B. Stewart
Sheriff.

Executed this 12th day of

July 1939
by leaving a copy of the Summons with

Joe E. Brown
Grace E. Brown
Defendant

W. B. Stewart
Sheriff

By *Orris M. Brown*
Deputy Sheriff

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

MARIE GUENTHER,

Complainant,

vs.

JOSEPH E. BROWN, GRACE BROWN, EMIL
JOHNSON and SELMA JOHNSON,

Respondents.

(COPY)

DECREE

LLOYD A. MAGNEY
Attorney-at-Law
Foley, Alabama.

To Part Two or Paragraph Two,

Subdivision 7

The said respondents deny each and every allegation in said subdivision and demand strict proof thereof.

To Part Two or Paragraph Two,
Subdivision 8

Said respondents admit that complainant bought from respondent Emil Johnson the property as described in the mortgage, in the notice of foreclosure sale, and in the deed by the auctioneer to said Emil Johnson, but expressly deny that she purchased at said sale any other land than that described in the above said papers, which was described in the conveyance from the said Emil Johnson to her, and expressly deny that she intended to purchase from the respondents, who intended to convey to her, the property which is described as the north thirty-two and one-third feet of Lot 3, in Block 5, in the Town of Foley, etc.; and expressly deny that the said respondent Emil Johnson and wife executed and delivered to her their warranty deed, intending thereby to convey to her any other property than that expressly described in their deed to her or that any mistake was repeated in the drafting of said deed or had been made in the mortgage upon which said deed was based and in the foreclosure deed above referred to, or that as a consequence of any mistake or series of mistakes the complainant bought from said Emil Johnson, from whom she received a deed executed by him and his wife; and expressly deny that complainant has any rights or an equity to have the description in said instruments or either of them changed or corrected, or that the description in said instruments or either of them should be reformed by striking from them the description of the property described therein and in lieu thereof, insert the north thirty-two and one-third feet of Lot 3 in Block 5, in the Town of Foley, as per plat of said Town on record in the office of the Judge of Probate in said County, being a subdivision of a part of Sections 28 and 29, in Township 7 South, Range 4 East, in Baldwin County, Alabama.

To Part Two or Paragraph Two,
Subdivision 9

Said respondents deny that they have ever been requested by the complainant or demanded by her to correct said mistake by

executing to her a quit-claim deed to said property and demand strict proof.

For further answer to the bill of complaint as amended as a whole said respondents allege that the complainant purchased and intended to purchase the property as described in her deed from the respondent Emil Johnson and wife, and at the time of so purchasing same did not know or claim that there was any mistake in the description, and that she bought same upon the description contained in the mortgage, in the notice of foreclosure, in the auctioneer's deed to her grantor and as contained in the deed from Emil Johnson to her, and that complainant got exactly what she intended to get as to the said description, and that there was no mutual mistake as between her and these respondents. That said property having been advertised as described in said mortgage, these respondents were not given legal notice that any other property except that described in said mortgage would be foreclosed or sold, and, therefore, were not given the privilege of being present to bid upon any foreclosure of the property described as the North thirty-two and one-third feet of Lot 3, Block 5 of the Town of Foley.

WHEREFORE, respondents having fully answered said bill of complaint as amended, pray that same be dismissed and complainant taxed with the costs therein incurred.

ROBERT E. GORDON

of GORDON, LEIGH, LEIGH & GORDON,

Solicitors for Respondents, Joseph
E. Brown and Grace E. Brown.

MARIE GUENTHER,

Complainant,

vs.

Joseph E. Brown, Grace Brown,
Emil Johnson and Selma Johnson,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

DECREE

This cause coming on to be heard on the amended Bill of Complaint, the demurrers of the respondents thereto, the prior decree of this Court overruling said demurrers and decree pro confesso against said respondents heretofore entered by the Register, was submitted to the Court and upon consideration thereof, the Court finds:

That it has jurisdiction of the persons of the parties and of the subject matter of the cause; that the allegations of the amended Bill of Complaint are true and that the complainant is entitled to relief as therein prayed.

It is, therefore, ORDERED, ADJUDGED and DECREED: That the mortgage deed made and executed by the respondents Joseph E. Brown and Grace E. Brown to the respondent Emil Johnson, dated March 24, 1924 and recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book 31 at Page 21 thereof be, and the same hereby is, reformed by striking therefrom the description of the land therein conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley, as per plat of said town on record in the office of the Judge of Probate of said County, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29) in Township Four (4) South, Range Four (4) East, Baldwin County, Alabama", and by inserting in said mortgage deed in lieu thereof the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama".

That the foreclosure deed from respondents Joseph E. Brown and Grace E. Brown by A. H. Crovatt, auctioneer and attorney-in-fact for the said Joseph E. Brown and Grace E. Brown, which said foreclosure deed was dated October 2nd, 1933 and recorded in the

the office of the Judge of Probate, Baldwin County, Alabama in Deed Book 55 at Page 126 thereof, be and the same hereby is reformed by striking from said foreclosure deed the description of the land thereby conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley as per plat of said County in the Town of Foley, Alabama on record in the office of the Judge of Probate in said county, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29), Township Seven (7) South of Range Four (4) East, Baldwin County, Alabama" and by inserting in said foreclosure deed in lieu thereof, the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama."

That the warranty deed from the respondents Emil Johnson and Selma Johnson, to the complainant, Marie Guenther, which is dated June 10th, 1935 and recorded in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 57 at Page 576 thereof, be, and the same hereby is reformed by striking therefrom the description of the land thereby conveyed, as follows: "The North 32 1/3 feet of Block Five (5) in the Town of Foley, Alabama as per plat on record of said county in the Town of Foley, Alabama on record in the office of the Judge of Probate of said county, being a subdivision of a part of Sections Twenty-eight (28) and Twenty-nine (29) in Township Seven (7) South of Range Four (4) East, Baldwin County, Alabama" and by inserting in said warranty deed, in lieu thereof, the following: "The North 32 1/3 feet of Lot Three (3) in Block Five (5) in the Town of Foley, Baldwin County, Alabama."

That the Register of this Court file in the office of the Judge of Probate of Baldwin County, Alabama a certified copy of this decree and cause the same to be indexed on both the direct and reverse indices of the records of said office, as a conveyance from the respondents, Joseph E. Brown, Grace E. Brown, Emil Johnson and Selma Johnson, to the complainant, Marie Guenther and tax

the cost of such recording as a part of the costs of this case.

That the respondents pay the costs of this action, taxed
at \$

Dated this 11th day of November, 1940.

A. M. Hare

Judge.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

MARIE GUENTHER,

Complainant,

vs.

JOSEPH E. BROWN, GRACE E.
BROWN, EMIL JOHNSON and
SELMA JOHNSON,

Respondents.

AMENDED BILL OF COMPLAINT

Filed March 3, 1944
R. S. Dink, Register

LLOYD A. MAGNEY
ATTORNEY AT LAW
FOLEY, ALABAMA

RECORDED

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

MARIE GUENTHER,

Complainant,

v.s.

JOSEPH E. BROWN, GRACE BROWN,
EMIL JOHNSON and SELMA JOHN-
SON,

Respondents.

DECREE

*Filed November 12, 1940
R. S. Ditch, Register*

LLOYD A. MAGNEY
ATTORNEY AT LAW
FOLEY, ALABAMA