

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

CAROL C. SHUBERT,)
Plaintiff,)
v.) CASE NO: CV-81-093 (E)
JAMES L. SHUBERT and DAVID)
H. COTTON, and all parties)
who, unknown to plaintiff,)
claim an interest in or to)
the above described property,)
whose names will be added by)
amendment when ascertained,)
Defendants.

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Shelby Cnty Judge of Probate, AL
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D E C R E E

THIS CAUSE, coming on to be heard on the 2nd day of November, 1981, said hour and date being heretofore set by this Court for a hearing on the Complaint for Declaratory Judgment filed by defendant David H. Cotton, and the Court having heard, considered and understood arguments on behalf of David H. Cotton, the Court is of the opinion and ascertains that the defendant, Cotton, is entitled to the relief prayed for in the Bill of Complaint and it is therefore:

CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the parties of this suit are the joint owners and tenants in common of the following described real estate situated in Shelby County, Alabama, to-wit:

Lot 25, according to the survey of Portsouth, 1st Sector, as recorded in Map Book 6, Page 22, in the Office of the Judge of Probate, Shelby County, Alabama.

2. That the parties hereto own all the interest to said property, undivided, as indicated opposite their names herein:

Carol C. Shubert	undivided ½ interest
David H. Cotton	undivided ½ interest

3. That David H. Cotton purchased his undivided ½ interest pursuant to a Shelby County Sheriff's Sale. However, this

undivided $\frac{1}{2}$ interest was subject to a right of redemption by James L. Shubert at the time of taking possession, April 2, 1981, at which time said Sheriff's Deed was recorded at Map Book 332, Page 56. On that date, David H. Cotton retained an undivided $\frac{1}{2}$ interest subject to right of redemption by James L. Shubert.

4. Subsequent to this sale, on April 10, 1981, in accordance with Title 6-5-233 of the Alabama Code, Cotton as purchaser made written demand for the possession of said property on said James L. Shubert. Title 6-5-233, "delivery of possession to purchaser on demand", specifically states as follows:

(b) If the land is in the possession of a tenant, written notice must be given to the debtor, unless he is a non-resident, and the debtor must direct the tenant to deliver possession or recognize the purchaser as his landlord in the event the lease antedates the mortgage, judgment or levy. If the debtor is a non-resident or cannot be found, notice to the tenant is sufficient and he must deliver possession within ten (10) days.

(c) Failure of the debtor or anyone holding under him to comply with the provisions of this section forfeits the right of redemption.

5. That from the evidence joint owner and tenant in common Cotton made written demand for the possession of the premises in accordance with Title 6-5-233 of the Alabama Code. Defendant Shubert failed to comply with the provisions of this section, thus forfeiting his right of redemption.

6. That in accordance with the decree rendered by this Court on September 23, 1981, the eight judgments against James L. Shubert shall attach to his appropriate share, his forfeited right of redemption.

7. That David H. Cotton shall retain his undivided $\frac{1}{2}$ interest, which shall not be subject to any of the aforesaid right of redemption of James L. Shubert, forfeited, or any of the

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aforesaid judgments against James L. Shubert or Carol C. Shubert. From the evidence before the Court it appears just and equitable and to the best interests of all parties to this action that the above described property be sold free and clear of the judgment liens described above but subject to said first mortgage. That said judgments of record shall not attach to the undivided $\frac{1}{2}$ interest of David H. Cotton or the undivided $\frac{1}{2}$ interest of Carol C. Shubert. Said outstanding eight judgments shall attach to the forfeited right of redemption of James L. Shubert.

8. That Kyle Lansford, Register, be and he is hereby authorized, ordered and directed to sell the above described property in front of the Courthouse of Shelby County, Alabama, said sale to be held at 11:00 A. M. on Saturday, the 7th day of November, 1981. Any and all equity received from said sale, after reporting to the Court, shall be divided as follows: Carol C. Shubert, undivided $\frac{1}{2}$ interest and David H. Cotton, undivided $\frac{1}{2}$ interest.

DONE this 2nd day of November, 1981.

Charles E. Alderson
CIRCUIT COURT JUDGE

FILED IN OFFICE THIS THE _____ DAY
OF NOV 2 1981 19 ____

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Shelby Cnty Judge of Probate, AL
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Kyle Lansford

Clerk of Circuit Court
Shelby County, Alabama

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
DOCUMENT WAS FILED

1981 NOV -6 AM 11:04

Thomas A. Ingham, Jr.
JUDGE OF PROBATE

Rec. 4.50
Incl. 1.00
5.50