

STATE OF ALABAMA
vs. Appellant
ROBERT KELLY; GERALEE KELLY;
ANNISTON PRODUCTION CREDIT
ASSOCIATION OF ANNISTON, et
al Appellees

CONDEMNATION
(Appealed from Probate Court, Case #18-141) CASE NO. L-78-73

ORDER AND DECREE OF CONDEMNATION

THIS CAUSE came on for trial on the 14th day of October, 1974, on appeal from the Order of Condemnation made and entered in the Probate Court of this County on the 27th day of September, 1973. The plaintiff, State of Alabama, and the defendants, Robert Kelly and wife, Geralee Kelly, all necessary parties to this proceeding came into open court in their own persons and by their attorneys of record, entered an unqualified appearance, and announced ready for trial. The Court is of the opinion and finds that it has jurisdiction of the cause and the parties.

THEREUPON, the Court proceeded to hear the allegations that a certain mortgage on the subject property in favor of Anniston Production Credit Association of Anniston in the amount of FOUR THOUSAND FIVE HUNDRED FORTY-EIGHT AND NO/100 (\$4,548.00) DOLLARS dated March 29, 1968, and recorded in the Probate Court of Shelby County, Alabama, in Mortgage Book 308 at Page 411 had been satisfied of record in the Probate Court of Shelby County, Alabama, on, to-wit, August 24, 1973, and that the defendant, Anniston Production Credit Association of Anniston should, therefore, be stricken as a party defendant, and upon consideration thereof, it is the opinion and judgment of the Court that the allegations are true and that the said Anniston Production Credit Association of Anniston has no interest in and to the subject property hereinafter described.

It is, therefore, CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court that Anniston Production Credit Association of Anniston is stricken as a party defendant in this action.

Certified a true and complete copy

Dan Reeves, Jr.
Register of Circuit Court

1993-04118

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THEREUPON, the Court proceeded to hear the allegations of the application or petition for Order of Condemnation, and upon consideration of said application and the testimony introduced in support thereof, it is the opinion and judgment of the Court that the allegations of the said petition are true, and that it is necessary that the property hereinafter described be condemned for the uses and purposes stated in said petition, and that the said application of the plaintiff for Order of Condemnation should be granted.

It is, therefore, CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court, and it is the judgment of the Court, that the application or petition for the condemnation of an easement or right-of-way in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent any persons from placing or maintaining any obstruction on said lands, and also the right to enter upon said lands for the purpose of construction, maintaining and repairing the public improvements constructed or installed or to be constructed or placed thereon or thereover, be, and the same hereby is, granted and allowed, and the lands and all interest in lands sought to be acquired be, and the same hereby are, condemned for the uses and purposes set out in said petition or application for Order of Condemnation.

THEREUPON, a jury having been legally demanded in said cause, the Court proceeds to have assessed by a jury the damages and compensation to which the defendants are entitled for the condemnation of the parcel of property set out and described in said petition or application for condemnation, and as hereinafter described.

THEREUPON, on the 15th day of October, 1974, a jury of good and lawful men and women, to-wit, Robert Cl Shirley, Foreman, and eleven others, who being duly impaneled and sworn according to law, upon their oaths do say:

We, the jury, assess and fix the damages and compensation to the owners, Robert Kelly and wife, Geralee Kelly, for the property described in the application for condemnation filed in the office of the Judge of Probate of Shelby County, Alabama, on the 6th day of August, 1973, the amount of \$18,000.00.

And now comes the plaintiff by its attorney and shows unto the Court that it has heretofore deposited with the Judge of the Probate Court of Shelby County, the sum of THIRTEEN THOUSAND FIVE HUNDRED SIXTY AND NO/100 (\$13,560.00) DOLLARS, as damages and compensation for the lands and interest in land hereinafter described, which said sum has been transferred and delivered by the Judge of the Probate Court of Shelby County, Alabama, to the Clerk of this Court, who now has possession of said funds.

It is hereby ORDERED, ADJUDGED and DECREED by the Court that the plaintiff pay the additional sum of FOUR THOUSAND FOUR HUNDRED FORTY AND NO/100 (\$4,440.00) DOLLARS as damages and compensation to the defendants and the sum of FIVE HUNDRED SEVENTY-THREE and 25/100 (\$573.25) DOLLARS, interest on the part unpaid by the Clerk to the defendants. The Court finds that the sum of EIGHT THOUSAND EIGHT HUNDRED TWENTY-EIGHT AND NO/100 (\$8,828.00) DOLLARS was previously paid to the defendants, Robert Kelly and Geralee Kelly, by the Clerk of the Court for the lands taken and condemned in this cause. The Court further finds that the costs of this proceeding be, and the same hereby are, taxed against the plaintiff. It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that the defendants are entitled to have and receive of the Clerk the sum of NINE THOUSAND SEVEN HUNDRED FORTY-FIVE AND 25/100 (\$9,745.25) DOLLARS.

Upon payment of the award and costs in this proceeding by the plaintiff in this cause, the hereinafter described lands and interest in lands are hereby condemned and awarded to the plaintiff.

It is further ORDERED, ADJUDGED and DECREED by the Court that the plaintiff, State of Alabama, be, and it hereby is, given and awarded a right-of-way and easement in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth

and other obstructions situated on said lands, and the right to prevent any persons from placing or maintaining any obstructions on or upon said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public road, street, avenue or highway for which said land is sought to be and hereby is condemned, and for the uses and purposes sought in the petition or application.

It is further ORDERED, ADJUDGED and DECREED that title to the property hereinafter described, be, and the same hereby is, divested out of the defendants, Robert Kelly and wife, GeraLee Kelly, and hereby is vested in the plaintiff, State of Alabama, said property being particularly described as follows:

PARCEL NO. 8

A tract of land designated as Tract No. 22, in the hereinafter described Right-of-Way Map.

/following described property, lying and being in Shelby County, Alabama, and more particularly described as follows: and as shown on the right-of-way map of Project No. F-214(20) as recorded in the Office of the Judge of Probate of Shelby County, Alabama:

Commencing at the northwest corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 29, T-19-S, R-1-E; thence southerly along the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 129 feet, more or less, to a point that is 150 feet, northwesterly of and at right angles to the centerline of Project No. F-214(20) and the point of beginning of the property herein to be conveyed; thence N 84° 44' 57" E, parallel to the centerline of said project, a distance of 1048 feet, more or less, to the north line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the north property line; thence easterly along said north property line, a distance of 278 feet, more or less, to the east line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the east property line; thence southerly along said east property line (crossing the centerline of said project at approximate Station 756+87) a distance of 270 feet, more or less, to a point that is 150 feet southeasterly of and at right angles to the centerline of said project; thence S 84° 44' 57" W, parallel to the centerline of said project, a distance of 1330 feet, more or less, to the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the west property line; thence northerly along said west property line (crossing the centerline of said project at approximate Station 743+55) a distance of 301 feet, more or less, to the point of beginning.

Said Strip of land lying in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 29, T-19-S, R-1-E, and containing 9.04 acres, more or less.

OWNERS OF PARCEL NO. 8 ARE AS FOLLOWS:

Robert Kelly, GeraLee Kelly,
Anniston Production
Credit Association of Anniston

DONE and ORDERED this 29th day of October, 1974.

s/ Kenneth F. Ingram
KENNETH F. INGRAM,
Circuit Judge, Shelby County, Alabama
Inst. # 1993-04118

Filed in Office this the 29th day of
October, 1974.
Kyle Lansford
Clerk of Circuit Court
Shelby County, Alabama

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