

IN THE MATTER OF THE ESTATE OF
IRENE ELIZABETH ARNOLD, Deceased

IN THE PROBATE COURT OF
SHELBY COUNTY, ALABAMA

CASE NO. 34-137

ORDER GRANTING PETITION FOR PRIVATE SALE
OF TWO SEPARATE PARCELS OF REALTY

This cause came before the Court on Petition of the Co-Personal Representatives herein for approval to sell, at private sale, two separate parcels of real estate owned by the decedent at the time of her death, along with the Co-Personal Representatives' Amendment thereto; said sales being for the purpose of division and distribution among those beneficiaries entitled thereto. Due and proper notice having been provided as required by law to those persons entitled to same; and guardians ad litem having been appointed to represent and defend the interests of J. C. Garrett, Jr., Mable R. Caruso and Floyd Arnold, all being represented to the Court to be incompetent adults, and the Court noting for the record the presence of Charles R. Reynolds and John K. Lucas, Co-Personal Representatives, and their attorney of record, Mitchell Spears, J. Perry Morgan (attorney of record for Betty Eddine, Lillie Mae Arnold, Floyd Arnold, and William Arnold, as well); Conrad M. Fowler, Jr. (guardian ad litem for J. C. Garrett, Jr.), William R. Justice (guardian ad litem for Mable R. Caruso and Floyd Arnold), said persons' presence being waived; Doug Black and Ronny Landrum, potential purchasers of subject Parcel "A" property, Susan P. Wilder, a potential purchaser of subject Parcel "B" property, and certain witnesses; the Court proceeded to accept evidence and testimony regarding said Petition.

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property; Jon F. Lanier, agent for potential purchasers of subject Parcel "B" property, and certain witnesses; the Court proceeded to accept evidence and testimony regarding said Petition.

The subject real estate is hereinafter described as Parcel "A" and Parcel "B", as follows:

PARCEL "A"

Commence at the southwest corner of Section 16, Township 22 South, Range 3 West, Shelby County, Alabama and run thence easterly along the south line of said section a distance of 1,312.04' to a steel pin corner and the point of beginning of the property being described; thence continue along last described course a distance of 759.75' to a steel pin corner on the westerly margin of Shelby County Highway No. 15; thence turn 122 degrees 55 minutes 13 seconds left and run northwesterly along said margin of said Highway a distance of 556.45' to a steel pin corner; thence turn 84 degrees 16 minutes 55 seconds left and run southwesterly a distance of 81.0' to a steel pin corner; thence turn 104 degrees 09 minutes 43 seconds right and run north-northwesterly a distance of 123.00' to a steel pin corner; thence turn 70 degrees 48 minutes 54 seconds left and run westerly a distance of 150.30' to a steel pin corner; thence turn 86 degrees 00 minutes 00 seconds left and run southerly a distance of 87.00' to a steel pin corner; thence turn 87 degrees 00 minutes 00 seconds right and run westerly a distance of 74.90' to a steel pin corner; thence turn 18 degrees 45 minutes 00 seconds right and run northwesterly a distance of 38.70' to a steel pin corner; thence turn 90 degrees 22 minutes 21 seconds left and run southwesterly a distance of 153.49' to a steel pin corner; thence turn 48 degrees 02 minutes 06 seconds left and run southerly a distance of 410.31' to the point of beginning.

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PARCEL "B"

Lot 2, Block 0, according to Lyman's Addition to the Town of Montevallo, Alabama, as recorded in Map Book 3, Page 27, in the Office of the Judge of Probate of Shelby County, Alabama.

It is undisputed that, on February 26, 1997, the Co-Personal Representatives entered into a contingent real estate contract with Susan P. Wilder for the sale of subject Parcel "A" property providing for a purchase price of \$70,000.00. It is also undisputed that said contract (a copy of which has been attached to the Petition herein as Exhibit "Parcel A-2") contained a contingency for court approval of said sale, and that the contract was the highest offer obtained as of February 26, 1997, from the submission of "secret" offers made to the attorney for the Co-Personal Representatives (including a lower offer made by Doug Black and Ronny Landrum).

It is further undisputed that, following the execution of the contingent contract with Susan P. Wilder, Doug Black and Ronny Landrum made an additional offer providing for a purchase price of \$77,000.00, said contract (attached hereto as Exhibit "Parcel A-1", as amended on March 28, 1997, was intended by the parties thereto, to amend the original offer made by Doug Black and Ronny Landrum, dated January 17, 1997). An appropriate Amendment was subsequently filed with this Court by the Co-Personal Representatives to reflect these facts.

Robert J. Dow, a certified real estate property appraiser, qualified as an expert in such matters, testified that either offer would exceed his opinion of the fair market value of the subject Parcel "A" property.

Furthermore, the Court received undisputed testimony and evidence that Joni Elizabeth Lanier-Nabors and Benjamin George Lanier-Nabors had, on or about February 24, 1997, offered said estate the sum of \$82,600.00 for the purchase of subject Parcel "B" property (this offer constituting the sole offer before the Court regarding the sale and purchase of subject Parcel "B" property). Robert J. Dow also testified that such offer would exceed his opinion of the fair market value of subject Parcel "B" property.

The Court would note that both, the contract pertaining to subject Parcel "A" property, as well as the sole contract pertaining to subject Parcel "B" property, contain language subjecting same to prior Court approval, and further inform all potential purchasers that the estate is seeking the "HIGHEST AND BEST PRICE OBTAINABLE FOR SUCH PROPERTY".

The Court has considered all evidence and testimony submitted at the hearing of the Co-Personal Representatives' Petition, and Amendment thereto, conducted on April 8, 1997, with no objections being presented thereto.

Personal Representatives, acting in a fiduciary capacity for other beneficiaries of decedent's estate, have an inherent obligation to obtain the "highest and best" offer for a proposed sale of estate assets. Any proposed sale of real estate must be contingent on Court approval, and is subject to rejection in the event a more beneficial offer is made at any time prior to Court approval. Therefore, in consideration of evidence and testimony of record, it is hereby ORDERED, ADJUDGED and DECREED, as follows:

1) That certain Parcel "A" and Parcel "B" properties owned by decedent at the time of her death cannot be equitably divided among the devisees entitled to same;

2) The "highest and best offer" for the purchase of said Parcel "A" property has been made by Doug Black and Ronny Landrum; and the "highest and best offer" for the purchase of said Parcel "B" property has been made by Joni Elizabeth Lanier-Nabors and Benjamin George Lanier-Nabors.

3) Said offers exceed the fair market value in regard to Parcels "A" and "B", and a sale in accordance with said offers would inure to the benefit of the estate and its devisees, and is therefore approved.

4) That certain offer made by Susan P. Wilder regarding Parcel "A", not being the "highest and best offer", is not approved.

5) The Co-Personal Representatives herein are authorized to proceed to sell, at private sale, the property described as Parcel "A" herein, for the sum of \$77,000.00, in accordance with the contract submitted to the Court as "Exhibit A-1" and are further authorized to execute any and all necessary documents in furtherance of said transaction, for completion of such sale to Doug Black and Ronny Landrum.

6) The Co-Personal Representatives herein are further authorized to proceed to sell, at private sale, the property described as Parcel "B" herein, for the sum of \$82,600.00, in accordance with the contract submitted to the Court as "Exhibit B-1", and are further authorized to execute any and all necessary documents in furtherance of said transaction, for completion of such sale to Joni Elizabeth Lanier-Nabors and Benjamin George Lanier-Nabors.

It is ORDERED that costs of court, including a fee of \$350.00 payable to Robert Dow, and guardian ad litem fee of \$_____ be paid to Conrad M. Fowler, Jr. and \$_____ to William R. Justice from decedent's estate.

DONE and ORDERED this 22 day of May, 1997.



Patricia Yeager Fuhrmeister
Judge of Probate

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