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GEORGE W. PROCTOR,
COMPLAINANT

VS.

CHARLIE DeSTAFINO
and
MILDRED DeSTAFINO,
RESPONDENTSIN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA

IN EQUITY

CASE NUMBER

DECREE OF THE COURT

This cause coming on to be heard, now comes the Complainant and submits the cause, upon the pleadings and proof and upon the testimony as noted by the Register, taken in open Court, for final decree.

It being made to appear to the Court that the Respondents, Charlie DeStafino and Mildred DeStafino, have been duly served with process, and have failed to appear, and that decrees pro confesso have been duly entered against each of them.

And now upon consideration hereof, the Court is of the opinion, and so finds, that the facts alleged in the Complainant's Bill of Complaint are true; that the said Charlie DeStafino and Mildred DeStafino, husband and wife, are joint owners of the property described in said Bill of Complaint, said property being described in said Bill of Complaint as follows:

Lots Number 7, Number 8, Number 16, and Number 17, all in Block one, of Sunrise Subdivision, according to map or plat of said subdivision recorded at Page 67 of Map Book Number 3 in the Office of the Judge of Probate of Shelby County, Alabama. Said lots are located in the NE Quarter of the NE Quarter, Section 17, Township 19, Range one west, Shelby County, Alabama;

that the Complainant, George W. Proctor, as an original contractor, heretofore contracted with the said Charlie DeStafino and Mildred DeStafino to furnish certain labor and materials in accomplishing certain building and repair improvements on a house located on the above described premises; that the said George W. Proctor did, in accordance with said contract with said Charlie DeStafino and Mildred DeStafino, furnish the specified labor and materials and did accomplish the certain specified building and repair improvements on the said specified house located on the premises described above; that the last work and labor and materials furnished in accordance with the said contract were furnished on April 1, 1957; that the contract price agreed on by the parties, the said Charlie DeStafino and Mildred DeStafino and the said George W. Proctor, under the terms of the said contract, was \$406.98, which was a fair and reasonable price; that there is a balance due and unpaid to said George W. Proctor by said Charlie DeStafino and Mildred DeStafino under the terms of said contract in the amount of \$365.00 plus interest from April 1, 1957; that said George W. Proctor did, on August 3, 1957, less than six months from the date

of the last items of work and labor and materials furnished under the terms of said contract, file for record in the Office of the Judge of Probate of Shelby County, Alabama, his statement in writing, verified by his oath duly administered by an officer authorized to take acknowledgments and proof of conveyances in this state, claiming his lien on the premises described above and containing the amount of the demand secured by the lien, after all just credits have been given, a description of the property on which said lien was claimed in such manner that the same may be located or identified, and the name of the owners thereof; that this suit for the enforcement of said lien was commenced on September 11, 1957, within six months after the maturity of the entire indebtedness secured thereby.

The Court further finds that the premises described above and claimed by the Complainant, George W. Proctor, to be subject to a lien in his favor by virtue of the facts herein found to be true are not situated in a city, town or village. The Court further finds that said premises as described above exceed in area one acre; that the house on which the Complainant furnished his certain building and repair improvements in accordance with his said contract with Respondents, and on which the Complainant has claimed his lien, as aforesaid, is located on Lot Number 8 of Block one of Sunrise Subdivision, according to the map or plat of said subdivision recorded at page 67 of Map Book Number 3 in the Office of the Judge of Probate of Shelby County, Alabama, said lot being in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 17, Township 19, Range 1 West, Shelby County, Alabama; that said Lot Number 8 contains less in area than one acre; that said Lot Number 8 is a part of the property described by the Complainant in his Bill of Complaint and in his verified written claim of lien heretofore filed in the Office of the Judge of Probate of Shelby County, Alabama, on August 3, 1957, and there claimed by the Complainant to be subject to a lien in his favor; and

Whereupon, the Court does find that the Complainant is entitled to have and recover from the Respondents the sum of \$365.00, together with interest on said sum from April 1, 1957, and the costs of this cause, and to have a lien declared by decree of this Court on both the house and on the land described as Lot Number 8 of Block one of Sunrise Subdivision, according to the map or plat of said subdivision recorded at page 67 of Map Book Number 3 in the Office of the Judge of Probate of Shelby County, Alabama, said lot being in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 17, Township 19, Range 1 West, Shelby County, Alabama, for said amount to the extent in ownership of all the right, title and interest therein of the Respondents

and to have the said house and land condemned and sold under the direction of this Court for the satisfaction of said lien, in the event said Respondents fail or refuse to pay said amount of indebtedness within the time set by the Court. It is therefore,

Considered, ordered, adjudged, and decreed by the Court that the Complainant do have and recover of the Respondents the sum of \$365.00, together with interest on said sum from April 1, 1956, and costs of this cause, and that a lien, both on the said house and on the land described as Lot Number 8 of Block one of Sunrise Subdivision, according to the map or plat of said subdivision recorded at page 67 of Map Book Number 3 in the Office of the Judge of Probate of Shelby County, Alabama, said lot being in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 17, Township 19, Range 1 West, Shelby County, Alabama, be and the same is hereby established and declared in favor of the Complainant for said amount to the extent in ownership of all right, title and interest therein of the Respondents.

It is further considered, ordered, adjudged, and decreed by the Court that the Respondents be allowed ten days from date to pay said amount of indebtedness to the Register of this Court, or in the event said Respondents fail or refuse to pay said amount as directed within the ten days allowed,

It is further considered, ordered, adjudged, and decreed by the Court that the Register of this Court sell, for the purpose of satisfying this decree, at a time to be fixed by the Register, to the highest bidder for cash, in front of the court house door in Shelby County, Alabama, within the legal hours of sale, the following described property: The house and land described as Lot Number 8 of Block one of Sunrise Subdivision, according to the map or plat of said subdivision recorded at page 67 of Map Book Number 3 in the Office of the Judge of Probate of Shelby County, Alabama, said lot being in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 17, Township 19, Range 1 West, Shelby County, Alabama, after having advertised the time, terms and place of said sale, together with a description of said property, by posting notice at the usual place of posting notices at the Court House of Shelby County, Alabama, thirty days prior to the date of said sale, and also by publication once a week for three consecutive weeks in some newspaper of general circulation published in Shelby County, Alabama, and make due report thereof to this Court within ten days from the date of sale.

It is further ordered, adjudged and decreed that the Complainant, or anyone for him, shall have the right to purchase at said sale, with the privilege of discharging his bid by crediting his lien indebtedness with the amount of such bid, less the amount of any court costs he may be ordered or required to pay.

It is further ordered, adjudged and decreed that the question of the Complainant's right to a money decree for the deficiency, if such there be, after said sale, and all other questions, are reserved for the further consideration of the Court.

Done this the 5th day of November, 1957.

s/ A. L. Hardegree

Circuit Judge

CERTIFICATE

STATE OF ALABAMA

SHELBY COUNTY

I, L. G. Fulton, Register of the Circuit Court of Shelby County, Alabama, hereby certify that the above and foregoing is a true, complete, and correct copy of the DECREE OF THE COURT rendered by the therein named Judge of the therein named Court as the same appears of record and on file in my office, in the case of George W. Proctor vs. Charlie DeStafino and Mildred DeStafino.

In Witness Whereof, I have hereunto set my hand and seal this the 6th day of November, 1957.

L. G. Fulton
Register of the Circuit Court
of Shelby County, Alabama

State of Alabama, Shelby County

I, L. C. Walker, Judge of Probate hereby certify that the within Decree of the Court was filed in this office for record on the 10th day of October 1957 at 8 o'clock A. M. and recorded in Book Record 196 Page 60 & examined 10-9-57 and the Mortgage Tax of \$..... Deed Tax of \$..... has been paid.
Fee \$ 3.00 PL L. C. Walker Judge of Probate