

JOE E. SYKES and
MARY H. SYKES,

Plaintiffs,

vs.

MARIE TAYLOR, DAVID N.
CUBERO, REGENCY REALTY, INC.,
a corporation,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. E-1143-76

JUDGMENT

This cause coming on for final hearing on the 2nd day of September, 1976 upon the Plaintiffs' Complaint, as amended, and the Answer of all Defendants thereto, Counterclaim by the Defendants Marie Taylor and David N. Cubero against the Plaintiffs and their Answer thereto, Cross-Claim, as amended, by the Defendants Marie Taylor and David N. Cubero against the Defendant Regency Realty, Inc. and its Answer thereto and Cross-Claim by the Defendant Regency Realty, Inc. against the Defendant Marie Taylor and her Answer thereto, and all parties Plaintiff and all parties Defendant being in open Court in their own and proper persons and by and through their Attorneys of Record and the Court proceeding to take testimony ore tenus and receive evidence in open Court and this cause being continued for conclusion of the evidence on September 3, 1976 and all parties resting their respective cases and submitting the issues to the Court for judgment and the Court taking this cause under advisement and considering the same, together with the written briefs submitted by the Attorneys of Record for all parties, the Court finds from the evidence that the parties are entitled to the following relief: (1) Plaintiffs are not entitled to specific performance of the sales contract between Plaintiffs and Defendant Marie Taylor; (2) Plaintiffs are not entitled to recover damages against either the Defendant Marie Taylor or the Defendant David N. Cubero; (3) Plaintiffs are entitled to a refund of their \$500.00 earnest money from the Defendant Regency Realty, Inc., together with the accrued interest thereon, and in addition are entitled to recover damages against the Defendant Regency Realty, Inc., said damages being in the amount of \$1,750.00, which sum includes said refund of earnest money and



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Shelby Cnty Judge of Probate, AL
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said interest; (4) the Defendants Marie Taylor and David N. Cubero are entitled to judgment permitting the Defendant Marie Taylor to sell the real estate involved in this action to the Defendant David N. Cubero under their lease and option to purchase contract; (5) neither the Defendant Marie Taylor nor the Defendant David N. Cubero is entitled to recover damages against either the Plaintiffs or the Defendant Regency Realty, Inc.; and, (6) the Defendant Regency Realty, Inc. is entitled to recover from the Defendant Marie Taylor a sales commission of \$1,250.00 for her sale of subject real estate during the term of the listing agreement between the Defendant Marie Taylor and the Defendant Regency Realty, Inc.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the Plaintiffs are not entitled to specific performance of the sales contract made the basis of Plaintiffs' Complaint, as amended, between the Plaintiffs and the Defendant Marie Taylor and said sales contract is hereby declared unenforceable.

2. That the option to purchase agreement made the basis of the Counterclaim by the Defendants Marie Taylor and David N. Cubero between the Defendant Marie Taylor and the Defendant David N. Cubero is hereby declared valid and binding between the parties thereto and the Defendant Marie Taylor is hereby permitted to sell and convey the following described real estate made the subject of this action to the Defendant David N. Cubero, to-wit:

A, part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31, Township 20 South, Range 2 East, Shelby County, Alabama, described as follows: Commence at the Northwest corner of said quarter-quarter section and run South 2 deg. 24' West along West forty-acre line 634.0 feet for point of beginning; thence turn an angle of 73 deg. 20' to left and run 315.0 feet to the West boundary of Highway No. 25; thence turn an angle of 85 deg. 01' to left and run along said Highway right of way 200 feet; thence turn an angle of 96 deg. 07' to the left and run 390.2 feet to West boundary line of said forty acres; thence turn an angle of 105 deg. 32' to left and run 200 feet along West boundary of said forty acres to point of beginning.

3. That the Plaintiffs have and recover judgment against the Defendant Regency Realty, Inc. for the sum of \$1,750.00, for which let execution issue.

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4. That the Defendant Regency Realty, Inc. have and recover judgment against the Defendant Marie Taylor for the sum of \$1,250.00, for which let execution issue.

5. That neither the Defendant Marie Taylor nor the Defendant David N. Cubero is entitled to recover damages against the Plaintiffs under their Counterclaim or against the Defendant Regency Realty, Inc. under their Cross-Claim, as amended.

6. That the Register of this Court record a copy of this Judgment in the Office of the Judge of Probate of Shelby County, Alabama, and this Judgment will serve as a voidance and release of that certain sales contract instrument between Marie Taylor and Joe E. Sykes and Mary H. Sykes as recorded in Miscellaneous Book 15, at Page 669, in said Probate Records.

7. That the Register of this Court will serve a copy of this Judgment by mail upon the Attorneys of Record for all parties in this cause.

8. That the Court costs in this cause are hereby taxed one-third to the Plaintiffs, one-third to the Defendant Regency Realty, Inc., and one-third jointly to the Defendants Marie Taylor and David N. Cubero.

DONE AND ORDERED this 27th day of October, 1976.

James H. Sharbutt
Circuit Judge

FILED IN OFFICE, This the 27th day
of Oct 1976

Kyle Linsford
Register Circuit Court of
Shelby County, Alabama

Original and complete copy

Kyle Linsford
Register of Circuit Court

BOOK 301 PAGE 742
STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1976 OCT 27 PM 3:01

Conrad M. Zander
JUDGE OF PROBATE

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