

CHARLES SMITH,  
  
PLAINTIFF  
  
V.  
  
MILDRED VIRGINIA PHILLIPS SMITH,  
  
DEFENDANT  
COUNTER-PLAINTIFF  
  
V.  
  
CHARLES SMITH; TOMMIE S. LEE  
and FRANK M. LEE,  
  
DEFENDANTS  
  
CHARLES EASON SMITH,  
  
THIRD-PARTY  
PLAINTIFF  
  
V.  
  
GARY L. THOMPSON,  
  
THIRD-PARTY  
DEFENDANT

IN THE CIRCUIT COURT  
  
EIGHTEENTH JUDICIAL CIRCUIT  
  
OF ALABAMA (EQUITY)

CIVIL ACTION NO. DR 78-118

FILED IN OFFICE \_\_\_\_\_ 17 day  
of November 197

*Kyle Crawford*  
Register Circuit Court of  
Shelby County, Alabama

FINAL JUDGMENT OF DIVORCE

This matter coming on to be heard upon the Complaint of the plaintiff, Charles Smith, and upon the answer and counterclaim of the defendant, Mildred Virginia Phillips Smith, and upon the counterclaimant's counterclaim against the defendants, Charles Smith, Tommie S. Lee and Frank M. Lee as defendants to the counterclaim. The Court having heretofore severed the Third-Party Complaint of Charles Eason Smith v. Gary L. Thompson. This cause was submitted to the Court upon the oral testimony and pleadings as filed. The original Complaint filed by the plaintiff, Charles Smith, against the defendant, Mildred Virginia Phillips Smith, is a claim for a divorce and a division of the properties of the parties. The counterclaim filed by the defendant, Mildred Virginia Phillips Smith, against Charles Smith, Tommie S. Lee and Frank M. Lee sought a divorce and other equitable relief by way of establishing a constructive trust. The Court based upon the oral testimony determines that there is no just reason for a delay in granting the relief prayed for in the plaintiff, Charles Smith's Complaint for a divorce and the Counterclaim filed by the defendant, Mildred Virginia

See release from Book 32 Page 363

Phillips Smith, for a divorce and other relief incidental to such divorce proceedings. The plaintiff, Charles Smith, and the defendant, Mildred Virginia Phillips Smith, through their attorneys of record have requested the Court to enter a judgment without any further delay. The Court is of the opinion that there is no just reason for a delay in rendering a decree involving the issues of a divorce and a division of the property and other matters set out in the pleadings. Upon consideration thereof, it is ordered and adjudged by the Court as follows:

FIRST: That the bonds of matrimony heretofore existing between the parties are dissolved, and the said CHARLES SMITH and said MILDRED VIRGINIA PHILLIPS SMITH are divorced each from the other.

SECOND: That neither party shall marry again except to each other until sixty (60) days after the date of this Judgment of Divorce, and if an appeal is taken (which must be instituted within forty-two (42) days from this Judgment, or from the date that a post-trial motion is denied), then neither party shall again marry except to each other during the pendency of the appeal.

THIRD: That the title to the furniture, fixtures, appliances, and other items located in the kitchen at the home of the parties is vested in the defendant, Mildred Virginia Phillips Smith, and the plaintiff is divested of any right, title and interest therein. The defendant, Mildred Virginia Phillips Smith, is further vested with the title to, and the plaintiff, Charles Smith, is divested of any right, title and interest to the following furniture, fixtures and items: all bathroom furniture and fixtures located in both bathrooms in the home of the parties, the heating and air conditioning system located in the home, the bedroom suite and all other items and furniture located in the bedroom next to the body of water located beside the bedroom, and all of her personal belongings of every kind and character. That title to the other bedroom suite located in the other bedroom of the home of the parties is vested in the plaintiff, Charles Smith, and the defendant, Mildred Virginia Phillips Smith, is divested of any right, title and interest therein. The remaining furniture, fixtures and household goods located in the den and livingroom shall be divided equally between the



parties upon their mutual consent. In the event the parties cannot mutually agree upon a division of the remaining furniture located in the livingroom and den of the parties, then each party shall have the right to specify one item as theirs and the other party shall have the right to specify one item as theirs until all of the remaining den and livingroom furniture have been divided. The plaintiff shall have the right to choose the first item to be his to be followed by the defendant and likewise until all the remaining furniture has been divided.

FOURTH: That title to the 1969 Mark III automobile is vested in the defendant and the plaintiff is divested of any right, title or interest therein.

FIFTH: That title to the 1970 Cadillac automobile is vested in the plaintiff and the defendant is divested of any right, title or interest therein.

SIXTH: That the defendant is divested of any right, title or interest in, and the plaintiff is vested with title to all of his personal belongings and other personal items received directly from his first wife or from her family, which shall include all photographs, linens and other items.

SEVENTH: That the plaintiff is hereby divested of all right, title and interest in and to the following described real property, and all right, title and interest in and to said property is vested in the defendant as follows, to-wit:

Begin at the Northeast corner of the Southeast quarter of the Northwest quarter of Section 35, Township 19 South, Range 3 West (said beginning point being as established by survey of James H. Seale December, 1969, and shown on the attached map which is made a part hereof); thence West along the North line of said quarter-quarter section 38.0 feet; thence 90 degrees 30 minutes left 73.8 feet to a rock bluff; thence 65 degrees 43 minutes right 28.0 feet; thence 18 degrees 07 minutes right 36.6 feet; thence 14 degrees 23 minutes right 119.3 feet to a point on a line that is 180.0 feet West of and parallel to the East line of said quarter-quarter line; thence 98 degrees 13 minutes left southerly along said line 260.0 feet; thence 89 degrees 30 minutes left 180.0 feet to the East line of said quarter-quarter section line; thence 90 degrees 30 minutes left along said quarter-quarter line 333.8 feet to the point of beginning.

The plaintiff, Charles Smith, will execute a deed conveying all of his right, title and interest in the aforesaid property to the defendant, Mildred Virginia Phillips Smith, less and except a parcel of property hereinafter set out in Paragraph #8 of this decree to be determined and ascertained by a survey hereinafter provided. Said parcel of property after said survey shall be awarded to the plaintiff, Charles Smith, as set out specifically in this decree.

EIGHTH: The plaintiff, Charles Smith, is hereby awarded a parcel of property as provided in Paragraph #7 of this decree to be determined by a surveyor to be engaged by the plaintiff, Charles Smith. Said surveyor shall survey the entire parcel of property owned by the plaintiff, Charles Smith, and the defendant, Mildred Virginia Phillips Smith. The property to be awarded to the plaintiff, Charles Smith, shall consist of a parcel of property to be surveyed to begin at the centerline of the driveway located at or near the point of beginning (P.O.B.) on defendant's Exhibit #16 and thence run in a northerly direction along the centerline of such driveway to a point within 50 feet of the southwest corner of the homeplace of the parties; thence run from that point at a 90 degree angle northwest to the property line of the total parcel of property owned by the parties; thence run west along the existing property line pursuant to defendant's Exhibit #16; thence south along said property line to the proposed Riverchase Parkway; thence northeast along said property line to the centerline of the aforesaid driveway which constituted the point of beginning. Upon the ascertainment of such legal description by such surveyor, the defendant, Mildred Virginia Phillips Smith, shall execute a deed conveying all of her right, title and interest in such specifically described property in said survey to the plaintiff, Charles Smith. The plaintiff, Charles Smith, and the defendant, Mildred Virginia Phillips Smith, shall each execute an easement to the other to use the other party's portion of said driveway up to a point of 50 feet of the southwest corner of the home of the parties as determined by the surveyor. In addition thereto, the defendant, Mildred Virginia Phillips Smith, shall give to the plaintiff, Charles Smith, an easement to go from the property deeded to



to him pursuant to this paragraph, to the edge of the water which adjoins the property of the defendant, Mildred Virginia Phillips Smith.

NINTH: The defendant, Mildred Virginia Phillips Smith, is hereby vested with title to, and the defendant, Tri-Smith Properties, Inc. is hereby divested of all right, title and interest in and to a parcel of property to be determined by the surveyor as follows: The surveyor shall ascertain the property line of the property owned by defendant, Tri-Smith Properties, Inc. adjoining the home of the defendant, Mildred Virginia Phillips Smith, and establish a line 50 feet from the northern tip of the home of the parties located on the property owned by Tri-Smith Properties, Inc. according to defendant's Exhibit #2, and thence run south to the said Riverchase Parkway East, and thence west to the point of beginning on defendant's Exhibit #16. Upon the ascertainment of such property being owned by Tri-Smith Properties, Inc. by the surveyor, the plaintiff, Charles Smith, and the defendant, Tri-Smith Properties, Inc. shall execute a deed conveying all of their right, title and interest in the aforesaid property to the defendant, Mildred Virginia Phillips Smith.

TENTH: The cost of the survey shall be taxed as part of the court costs accrued in this cause.

ELEVENTH: The Court determines that the defendant, Mildred Virginia Phillips Smith, has no interest in any other properties owned by the plaintiff, Charles Smith.

TWELFTH: The plaintiff, Charles Smith, shall vacate the premises and homeplace of the parties within thirty (30) days from the date of this decree.

THIRTEENTH: The plaintiff, Charles Smith, shall pay to the defendant, Mildred Virginia Phillips Smith's attorney of record, Robert C. Barnett, the sum of Four Thousand Dollars (\$4,000.00) as his attorneys fees for representing the defendant in this cause. There is hereby affixed a lien for the payment of such attorneys fees on the plaintiff, Charles Smith's interest in the herein described property, to-wit:



Begin at the Northeast corner of the Southeast quarter of the Northwest quarter of Section 35, Township 19 South, Range 3 West (said beginning point being as established by survey of James H. Seale December, 1969 and shown on the attached map which is made a part hereof); thence West along the North line of said quarter-quarter section 38.0 feet; thence 90 degrees 30 minutes left 73.8 feet to a rock bluff; thence 65 degrees 43 minutes right 28.0 feet; thence 18 degrees 07 minutes right 36.6 feet; thence 14 degrees 23 minutes right 119.3 feet to a point on a line that is 180.0 feet West of and parallel to the East line of said quarter-quarter line; thence 98 degrees 13 minutes left southerly along said line 260.0 feet; thence 89 degrees 30 minutes left 180.0 feet to the East line of said quarter-quarter section line; thence 90 degrees 30 minutes left along said quarter-quarter line 333.8 feet to the point of beginning.

Said attorneys fees to begin drawing interest at the rate of eight per cent (8%) per annum on the unpaid balance within twelve (12) months from the date of this decree.

FOURTEENTH: The plaintiff, Charles Smith, is hereby taxed with all court costs accrued herein, including the cost of the survey as specified herein, and all fees and costs advanced by the defendant, Mildred Virginia Phillips Smith, for which let execution issue.

DONE and ORDERED this 16<sup>th</sup> day of November, 1978.

James H. Sharbutt.  
CIRCUIT JUDGE



19781129000160010 6/6 \$.00  
Shelby Cnty Judge of Probate, AL  
11/29/1978 12:00:00 AM FILED/CERT

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

1978 NOV 29 AM 8:40

Thomas G. Showalter, Jr.  
JUDGE OF PROBATE

Rec. 9.00  
Ind. 1.00  
10.00