

R. H. MOORE, SR. d/b/a MOORE'S  
ASPHALT PAVING COMPANY,

Plaintiff,

vs.

MERCHANTS & PLANTERS BANK,  
Montevallo, Alabama, and  
CASTLEBERRY CONSTRUCTION  
COMPANY, INC.,

Intervenors,

vs.

JOHNNY O'GRADY and TOMMY BAKER,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA



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Shelby Cnty Judge of Probate, AL  
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CIVIL ACTION NO. CV-78-230(E)

CURB SPECIALISTS, INC.,

Plaintiff,

vs.

MERCHANTS & PLANTERS BANK,  
Montevallo, Alabama, and  
CASTLEBERRY CONSTRUCTION  
COMPANY, INC.,

Intervenors,

vs.

JOHNNY O'GRADY, TOMMY BAKER  
and BAKER DAIRY FARMS, INC.,  
et al,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. CV-78-270(E)

JUDGMENT ENTRY RE: SEVERANCE  
AND  
SUMMARY JUDGMENTS FOR INTERVENORS

These cases were consolidated on July 22, 1980 by order of this Court. On July 22, 1980 this Court granted the motion of Castleberry Construction Company, Inc., as Intervenor, for a summary judgment against the Plaintiff in Case No. CV-78-230 and on August 29, 1980 granted its motion for summary judgment against the Plaintiff in Case No. CV-78-270. On October 30, 1980 this Court granted the motion to sever the interventions by Merchants & Planters Bank and the intervention by Castleberry Construction Company, Inc. in both of

Kyle Langford

these consolidated cases, pursuant to Rules 42(b) and 54(b), ARCP. On October 30, 1980 this Court granted the two separate motions for summary judgment, as amended, by Merchants & Planters Bank, as Intervenor, against all parties Plaintiff and Defendant in Case No. CV-78-230 and Case No. CV-78-270. There appears to the Court to be no just reason or cause for a delay in entry of judgment based upon the foregoing orders heretofore rendered granting these several motions, it is, therefore, ORDERED by the Court as follows:

1. That the intervention by Castleberry Construction Company, Inc. in these consolidated cases and the interventions by Merchants & Planters Bank in these consolidated cases be and the same are hereby severed from all other issues involved in these consolidated cases for the express purpose of this Court making a final determination as to all parties Plaintiff, Defendant and Intervenor as to the validity of the lien claim propounded by each Plaintiff in the initial actions and the Court's judgment, after severance, on the interventions is to be a final judgment as to the existence or non-existence of any lien in favor of either Plaintiff against any of the land or improvements involved in these consolidated cases.

2. The summary judgments heretofore rendered in favor of the Intervenor Castleberry Construction Company, Inc. in Case No. CV-78-230 and in Case No. CV-78-270 be and the same are hereby final judgments adjudicating that neither Plaintiff has any lien against said Intervenor's real estate described as Lots 11 and 12, according to the Survey of First and Second Sectors, of Sunnydale Estates, as recorded

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in Map Book 7, Page 75, in the Probate Office of Shelby County, Alabama. Situated in Shelby County, Alabama. This judgment being entered pursuant to Rule 54(b) based upon an express determination by the Court that there is no reason for delay of entry of this final judgment.

3. The summary judgment heretofore rendered in favor of the Intervenor Merchants & Planters Bank in Case No. CV-78-230 and Case No. CV-78-270 be and the same is a final judgment adjudicating that neither Plaintiff has any lien against any part of Sunnydale Estates subdivisions, First, Second or Third Sectors, or against any of the real estate described in that certain Mortgage Foreclosure Deed to Merchants & Planters Bank, as Grantee, dated March 30, 1979 and recorded in Deed Book 318, at Pages 783 - 786, in the Office of the Judge of Probate of Shelby County, Alabama, or against any of the real estate described in that certain Mortgage Foreclosure Deed to Merchants & Planters Bank, as Grantee, dated June 13, 1980 and recorded in Deed Book 326, at Pages 939 - 942, in said Probate Records. Further, a final judgment adjudicating that no Defendant in either of these consolidated actions has any right, title and interest in and to any of the real estate described in the aforesaid deeds, except as to the outstanding statutory right of redemption under the mortgage foreclosed, as described in the aforesaid deed recorded in Deed Book 326, at Pages 939 - 942. This judgment being entered pursuant to Rule 54(b) based upon express determination by the Court that there is no reason for delay of entry of this final judgment.

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4. It is further ordered that the Clerk of this Court cause a certified copy of this judgment to be recorded in the Miscellaneous Record Book in the Office of the Judge of Probate of Shelby County, Alabama, for the purpose of releasing and satisfying of record the lien recorded in favor of R. H. Moore, Sr. d/b/a Moore's Asphalt Paving Company in Mechanics Lien Book 4, at Page 68, in said Probate Records, and the lien recorded in favor of Curb Specialists, Inc. in Mechanics lien Book 4, at Page 75, in said Probate Records; this judgment to be indexed in the direct indexes therefor under the names of R. H. Moore, Sr. d/b/a Moore's Asphalt Paving Company and Curb

Specialists, Inc. and in the indirect indexes under the names of Merchants & Planters Bank and Castleberry Construction Company, Inc.

5. That the Clerk of this Court serve a copy of this Judgment by mail upon all Attorneys of Record in these consolidated cases.

DONE this 4<sup>th</sup> day of November, 1980.

CLERK OF ALA. SHELBY CO.  
I CERTIFY THIS  
JUDGMENT WAS FILED

1980 NOV -5 AM 11:35

*William B. Shaw*  
CLERK OF PROBATE

November 5, 1980  
Certified a true and complete copy

*Kyle Lunsford*  
Clerk of Circuit Court

*Kenneth H. Ingram*  
Circuit Judge



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FILED IN OFFICE THIS THE	<u>4<sup>th</sup></u>	DAY
OF	<u>November</u>	19 <u>80</u>
<i>Kyle Lunsford</i> Clerk of Circuit Court Shelby County, Alabama		