

S. M. BIRD, JR., individually, and  
doing business as BIRD BUILDING  
MATERIAL CO.,

Plaintiff,

vs.

LINDA L. O'GRADY; JOHNNY W. O'GRADY,  
JR. a/k/a JOHNNY O'GRADY; GEORGE F.  
SEIER; PAGE SEIER; FIRST FEDERAL  
SAVINGS AND LOAN ASSOCIATION OF  
BESSEMER, a corporation; THE  
ROOMAKERS CORPORATION, a  
corporation,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA

FILED IN OFFICE THIS THE 10th DAY

OF February, 1982

*Kyle Lansford*

Clerk of Circuit Court  
Shelby County, Alabama

CASE NO. CV-78-187

AMENDED FINAL JUDGMENT

This cause being now before the Court upon the remandment of same by judgment of the Supreme Court of Alabama on appeals by all defendants (except the Defendant/Cross-Claimant The Roomakers Corporation) and on cross-appeal by the Plaintiff from the initial Judgment of this Court entered on October 25, 1979. The Supreme Court of Alabama, by opinion issued on September 18, 1981, as corrected upon denial on December 23, 1981 of applications for rehearing by all Defendants (except George F. and Page Seier), with its Certificate of Judgment to this Court entered on January 26, 1982, as amended on February 2, 1982, all as more fully appear in the records of this Court, having affirmed the initial Judgment of this Court on all issues except as to the following: (1) Denial to the Plaintiff of a lien on the acre surrounding the new house and on the acre surrounding the concrete block house; (2) award to the Plaintiff of a lien against the land upon which the barn is situated, which land is covered by the purchase money mortgage to Defendants George F. and Page Seier; and, (3) taxing to the Defendant Johnny W. O'Grady, Jr. the fee awarded to the Court Appointed Surveyor for his work preparatory to and in preparation of a survey dated April 27, 1979 of the real estate in question that was received in evidence as Plaintiff's Exhibit 1. As to the foregoing three enumerated issues the initial Judgment of this Court was reversed by the Supreme Court of Alabama and was remanded to this Court with directions for entry of a correct final judgment.

In furtherance of and in compliance with the opinion and directions of the Supreme Court of Alabama, this Court makes the

*Kyle Lansford*

See assign. 4 Nov. 82. Bk. of 4 pg. 267 (3/10/82)  
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See assign. Misc books 50 pg. 508 (6-8-83)

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following amended findings of fact and conclusions as to the relief to which the parties are entitled: (1) This Court finds that it should allot to the Plaintiff and to the Cross-Claimant The Roomakers Corporation a lien of equal standing against the one acre surrounding the new house described and shown as Parcel "C" on the survey of the Court Appointed Surveyor dated April 27, 1979, as revised on November 8, 1981, which revised survey should be marked by the Clerk of this Court as Court's Exhibit 1 and filed on this date with the Clerk's records in this cause. (2) This Court finds that it should allot to the Plaintiff a lien against the one acre surrounding the concrete block house described and shown as Parcel "A" on the survey marked and filed this date as Court's Exhibit 1. (3) This Court finds that it should not allow the Plaintiff a lien against any of the land subject to the purchase money mortgage of the Defendants George F. and Page Seier, but should award to the Plaintiff a lien against the barn located on that part of said land subject to their purchase money mortgage which is described as Parcel "B" on the survey marked and filed on this date as Court's Exhibit 1; further, that in the event such lien is foreclosed by judicial sale, the purchaser of said barn in connection with its removal from the land under the barn should have a reasonable right of access for a reasonable length of time over and across said Parcel "B" and the land lying between the North line of said Parcel "B" and the public gravel road lying to the North thereof. (4) This Court finds that it should tax the survey cost awarded in favor of the Court Appointed Surveyor against the Plaintiff. (5) This Court finds that in the interest of clarity and cohesiveness, the adjudication and order portion of its initial Judgment should be rewritten and entered so as to give full force and effect to the above and foregoing amended findings and conclusions, and to the applicable time frame for judicial foreclosure and mandatory injunctions.

IT IS, THEREFORE, CONSIDERED, ORDERED AND ADJUDGED by this Court that the initial Judgment of this Court entered on October 25, 1979 be, and the same hereby is, amended in all respects so as to conform with the opinion, directions and judgment of the Supreme Court of Alabama, such being accomplished by entry of this Amended Final Judgment on this date.

IT IS FURTHER ORDERED AND ADJUDGED by this Court that simultaneously with the entry of this Amended Final Judgment the Clerk of this Court shall mark as Court's Exhibit 1 the survey of the Court Appointed Surveyor dated April 27, 1979, as revised on November 8, 1981, and file the same as part of the Clerk's records for this cause.

IT IS FURTHER ORDERED AND ADJUDGED by this Court that each numbered paragraph of the adjudication and order portion of the initial Judgment of this Court dated October 25, 1979 in which any modification or amendment is due to be made be, and the same hereby is, modified and amended to read and be as follows, and the final orders and mandates of this Court in this cause are as follows:

1. No change.
2. No change.
3. No change.
4. No change.

5. That a materialman's lien is hereby declared in favor of S. M. Bird, Jr. as security for the aggregate of (a) \$31,094.14 of the money judgment entered in paragraph number 2 of this Court's initial Judgment in favor of S. M. Bird, Jr. and against Johnny W. O'Grady, Jr., (b) \$4,367.31 interest accrued on said money judgment at the rate of 6% per annum from its entry on October 25, 1979 to January 25, 1982, (c) \$5.83 interest per day on the total judgment debt from January 25, 1982 until paid, in whole or in part, (d) all costs in this Court taxed against Johnny W. O'Grady, Jr. by this Amended Final Judgment, and (e) all cost of appeal taxed against Johnny W. O'Grady, Jr. by the Supreme Court of Alabama.

This materialman's lien being imposed upon (a) the new residential dwelling house of Johnny W. O'Grady, Jr., the .062 acres of land upon which said house is situated, and the acre surrounding said house, all of which real estate is shown on Court's Exhibit 1 as Parcel "C" and is described below as Parcel "C", and upon (b) the concrete block storage house of Johnny W. O'Grady, Jr., the .020 acres of land upon which said block house is situated, and the acre surrounding said block house, all of which real estate is shown on

Court's Exhibit 1 as Parcel "A" and is described below as Parcel "A":

Parcel "C"

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of the said quarter-quarter for 239.22 feet; thence turn an angle of 90 degrees, 00 minutes to the right and run Westerly for 178.51 feet to the point of beginning; thence continue along the last described course for 354.75 feet; thence turn an angle of 90 degrees, 00 minutes to the left and run Southerly for 122.63 feet; thence turn an angle of 87 degrees, 29 minutes, 24 seconds to the left and run Easterly for 355.08 feet; thence turn an angle of 92 degrees, 30 minutes, 37 seconds to the left and run Northerly for 138.18 feet back to the point of beginning.

The above described Parcel "C" contains 1.062 acres total, with the new one story frame dwelling contained within the lines of Parcel "C" occupying .062 acres, yielding a net area of 1.00 acres outside said new house.

Parcel "A"

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of the said quarter-quarter for 239.22 feet; thence turn an angle of 90 degrees, 00 minutes to the right and run Westerly for 241.67 feet to the point of beginning; thence continue along the last described course for 291.59 feet, then turn an angle of 90 degrees, 00 minutes to the right and run Northerly for 136.00 feet; thence turn an angle of 68 degrees, 11 minutes, 58 seconds to the right and run Northeasterly for 61.06 feet; then turn an angle of 24 degrees, 18 minutes, 40 seconds to the right and run Easterly for 235.11 feet; thence turn an angle of 87 degrees, 29 minutes, 24 seconds to the right and run Southerly for 148.39 feet back to the point of beginning.

The above described Parcel "A" contains 1.02 acres total, with the one story concrete block house contained within the lines of Parcel "A" occupying .02 acres, yielding a net area of 1.00 acres outside said concrete block house.

The above described Parcel "C" and Parcel "A" are both included in and part of the real estate of Johnny W. O'Grady, Jr. described in paragraph number 4 of this Court's Initial Judgment and are both a part and parcel of the portion thereof heretofore conveyed by Linda L. O'Grady and Johnny W. O'Grady, Jr. to First Federal Savings and Loan Association of Bessemer by that certain mortgage dated February 9, 1978 and recorded in Mortgage Book 374, at Pages 518-520, inclusive, in the Office of the Judge of Probate of Shelby County, Alabama, described as follows:

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of

the said quarter-quarter for 101.43 feet to the point of beginning; thence continue along the last described course running Southerly for 283.79 feet; thence turn an angle of 92 degrees, 30 minutes, 35 seconds to the right and run Westerly for 533.76 feet; thence turn an angle of 87 degrees, 29 minutes, 24 seconds to the right and run Northerly for 258.63 feet; thence turn an angle of 68 degrees, 11 minutes, 58 seconds to the right and run Northeasterly for 61.06 feet; thence turn an angle of 24 degrees, 18 minutes, 40 seconds to the right and run Easterly for 477.02 feet back to the point of beginning.

The above described parcel contains 3.458 acres and is situated in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, according to the survey of William J. Egan, Jr., Registered Land Surveyor Number 10925, dated December 28, 1977.

This lien in favor of S. M. Bird, Jr. is superior to and has priority over the above described mortgage lien in favor of First Federal Savings and Loan Association of Bessemer and all other liens and encumbrances affecting the real estate subject to this lien, except the lien of The Roomakers Corporation against said Parcel "C" declared in the next paragraph of this Amended Final Judgment stands on an equal footing with said lien of S. M. Bird, Jr. against said Parcel "C".

6. That a materialman's lien is hereby declared in favor of The Roomakers Corporation as security for the aggregate of (a) the \$1,914.44 money judgment entered in paragraph number 3 of this Court's initial Judgment in favor of The Roomakers Corporation and against Johnny W. O'Grady, Jr., (b) \$268.91 interest accrued on said money judgment at the rate of 6% per annum from its entry on October 25, 1979 to January 25, 1982, and (c) \$0.36 interest per day on the total judgment debt from January 25, 1982 until paid, in whole or in part.

This materialman's lien being imposed upon the new residential dwelling house of Johnny W. O'Grady, Jr., the .062 acres of land upon which said house is situated, and the one acre surrounding said house, all of which real estate is shown on Court's Exhibit 1 as Parcel "C" and is described below as Parcel "C":

Parcel "C"

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of the said quarter-quarter for 239.22 feet; thence turn an angle of 90 degrees, 00 minutes to the right and run Westerly for 178.51 feet to the point of beginning; thence



continue along the last described course for 354.75 feet; thence turn an angle of 90 degrees, 00 minutes to the left and run Southerly for 122.63 feet; thence turn an angle of 87 degrees, 29 minutes, 24 seconds to the left and run Easterly for 355.08 feet; thence turn an angle of 92 degrees, 30 minutes, 37 seconds to the left and run Northerly for 138.18 feet back to the point of beginning.

The above described Parcel "C" contains 1.062 acres total, with the new one story frame dwelling contained within the lines of Parcel "C" occupying .062 acres, yielding a net area of 1.00 acres outside said new house.

The above described Parcel "C" is included in and part of the real estate of Johnny W. O'Grady, Jr. described in paragraph number 4 of this Court's initial Judgment and is a part and parcel of the portion thereof heretofore conveyed by Linda L. O'Grady and Johnny W. O'Grady, Jr. to First Federal Savings and Loan Association of Bessemer by that certain mortgage dated February 9, 1978 and recorded in Mortgage Book 374, at Pages 518 - 520, inclusive, in the Office of the Judge of Probate of Shelby County, Alabama, described as follows:

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of the said quarter-quarter for 101.43 feet to the point of beginning; thence continue along the last described course running Southerly for 283.79 feet; thence turn an angle of 92 degrees, 30 minutes, 35 seconds to the right and run Westerly for 533.76 feet; thence turn an angle of 87 degrees, 29 minutes, 24 seconds to the right and run Northerly for 258.63 feet; thence turn an angle of 68 degrees, 11 minutes, 58 seconds to the right and run Northeasterly for 61.06 feet; thence turn an angle of 24 degrees, 18 minutes, 40 seconds to the right and run Easterly for 477.02 feet back to the point of beginning.

The above described parcel contains 3.458 acres and is situated in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, according to the survey of William J. Egan, Jr., Registered Land Surveyor Number 10925, dated December 28, 1977.

This lien in favor of The Roomakers Corporation is superior to and has priority over the above described mortgage lien in favor of First Federal Savings and Loan Association of Bessemer and all other liens and encumbrances affecting the real estate subject to this lien, except the lien of S. M. Bird, Jr. against said Parcel "C" declared in the foregoing paragraph of this Amended Final Judgment stands on an equal footing with said lien of The Roomakers Corporation against said Parcel "C".

7. That a materialman's lien is hereby declared in favor of S. M. Bird, Jr. as security for the aggregate of (a) \$16,883.84 of the money judgment entered in paragraph number 2 of this Court's

initial Judgment in favor of S. M. Bird, Jr. and against Johnny W. O'Grady, Jr., (b) \$2,371.39 interest accrued on said money judgment at the rate of 6% per annum from its entry on October 25, 1979 to January 25, 1982, and (c) \$3.17 interest per day on the total judgment debt from January 25, 1982 until paid, in whole or in part.

This materialman's lien being imposed upon the new barn of Johnny W. O'Grady, Jr. which is situated upon the land shown on Court's Exhibit 1 as Parcel "B" and is described below as Parcel "B", but no lien is awarded the Plaintiff against the land under the barn or any land surrounding the barn:

Parcel "B"

Begin at the Northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 16, Township 21 South, Range 2 West, Shelby County, Alabama, and run Southerly along the East side of the said quarter-quarter for 239.22 feet; thence turn an angle of 90 degrees, 00 minutes to the right and run Westerly for 533.26 feet to the point of beginning; thence continue along the last described course for 221.74 feet; thence turn an angle of 90 degrees, 00 minutes to the left and run Southerly for 208.71 feet; thence turn an angle of 90 degrees, 00 minutes to the left and run Easterly 221.74 feet; thence turn an angle of 90 degrees, 00 minutes to the left and run Northerly for 208.71 feet back to the point of beginning.

The above described Parcel "B" contains 1.062 acres total, with the one story frame barn contained within the lines of Parcel "B" occupying .062 acres, yielding a net area of 1.00 acres outside the said barn.

The above described Parcel "B" is included in and part of the real estate of Johnny W. O'Grady, Jr. described in paragraph number 4 of this Court's initial Judgment and is part and parcel of the portion thereof which was conveyed by Johnny W. O'Grady, Jr. and Linda L. O'Grady to George F. Seier or Page Seier by that certain purchase money mortgage dated January 10, 1978 and recorded in Mortgage Book 373, at Pages 506 and 507, inclusive, in the Office of the Judge of Probate of Shelby County, Alabama.

8. If within 30 days from the date of this Amended Final Judgment the records of this Court do not reflect satisfaction of the \$31,094.14 portion of the money judgment in favor of S. M. Bird, Jr., together with the accrued and accruing interest thereon, and the costs of Courts taxed against Johnny W. O'Grady, Jr., all as stated in the foregoing paragraph number 5 of this Amended Final Judgment, then the lien in favor of S. M. Bird, Jr., as declared and imposed by the

foregoing paragraph number 5 of this Amended Final Judgment, shall be foreclosed by judicial sale of the real estate subject thereto. As to such real estate so sold, such sale shall extinguish all right, title and interest of Johnny W. O'Grady, Jr. and Linda L. O'Grady, the liens in favor of S. M. Bird, Jr. and The Roomakers Corporation declared in the foregoing paragraphs 5 and 6, respectively, of this Amended Final Judgment, the mortgage lien of First Federal Savings and Loan Association of Bessemer described in the foregoing paragraph 5 of this Amended Final Judgment, and all other liens and encumbrances against such real estate.

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Such foreclosure sale to be by the Clerk of this Court at public auction in the usual and customary manner for a Court sale of real estate. The purchaser at such sale will be furnished with an Owner's Policy of title insurance, the cost of which will be part of the costs in this Court. Within 10 days after such sale, a report of such sale shall be submitted by said Clerk for confirmation by this Court. Following confirmation, said Clerk will deliver a deed to the purchaser and will distribute the sale proceeds in accordance with this Amended Final Judgment and the subsequent confirmation order.

The proceeds of such foreclosure sale shall be applied in the following order: First, to the payment of all costs of appeal taxed against Johnny W. O'Grady, Jr. by the Supreme Court of Alabama and all costs in this Court taxed against Johnny W. O'Grady, Jr. and all costs in this Court incurred in connection with such foreclosure sale; Second, in payment of or toward the \$31,094.14 portion of the money judgment in favor of S. M. Bird, Jr., together with the accrued and accruing interest thereon, as stated in the foregoing paragraph number 5 of this Amended Final Judgment; Third, in payment of or toward the \$1,914.44 money judgment in favor of The Roomakers Corporation, together with the accrued and accruing interest thereon, as stated in the foregoing paragraph number 6 of this Amended Final Judgment (provided, however, if after payment of the First item stated above, such proceeds are not sufficient to pay in full both the Second item stated above and this Third item, then such proceeds shall be prorated between such Second item and this Third item in proportion to the total judgment debt then due each such judgment creditor); Fourth, in payment of or toward the unpaid indebtedness secured by the



mortgage held by First Federal Savings and Loan Association of Bessemer, as described in the foregoing paragraphs 5 and 6 of this Amended Final Judgment; and, Fifth, the remainder, if any, to the Defendant Johnny W. O'Grady, Jr.

The indebtedness due to S. M. Bird, Jr. under this portion of his said money judgment and the indebtedness due to The Roomakers Corporation under its said money judgment and the indebtedness due to First Federal Savings and Loan Association of Bessemer under its said mortgage, will be reduced by such foreclosure sale and distribution of sale proceeds only in the amount, if any, actually paid by said Clerk to each such creditor.

If within 30 days from the date of this Amended Final Judgment the records of this Court do not reflect a satisfaction of all of said costs of Courts and this portion of said judgment debt due S. M. Bird, Jr., then Johnny W. O'Grady, Jr., Linda L. O'Grady, their family members and all persons holding possession of any part of the real estate subject to the lien of S. M. Bird, Jr., as described in the foregoing paragraph 5 of this Amended Final Judgment, are hereby ordered to vacate such real estate on the 31st day after the date of this Amended Final Judgment, taking with them all of their personal property, and in doing so neither Johnny W. O'Grady, Jr. or any other such person shall cause or allow any damage to or remove any part or portion of any of such real estate or any permanent fixture or attachment thereto, and failure of Johnny W. O'Grady, Jr. or any other such person to abide by this order or any part thereof will subject Johnny W. O'Grady, Jr. and each other such person to punishment for contempt of this Court. Further, on such 31st day the Sheriff of Shelby County is directed, under Writ of Injunction to be issued by the Clerk of this Court, to post written notice of this injunctive order on the front door of the block house and the front door of the new house situated upon this real estate, and to insure that such notices remain posted until the Clerk's deed is delivered to the purchaser at the foreclosure sale. The Sheriff is also directed to inspect the premises at the time of posting such notices and at reasonable intervals thereafter, as necessitated by the

circumstances then existing, to determine the occupancy and condition of the premises. If any such inspection reveals to the Sheriff a violation of this injunctive order and the identity of the violator, then the Sheriff is ordered to take such violator into his custody and bring such person before this Court at the first opportunity for such contempt proceedings as deemed appropriate by this Court; if, however, a violation of this injunctive order is revealed, but the violator is not known to the Sheriff, then the Sheriff will report the facts of such violation to this Court or its Clerk at his first opportunity for such action as may be appropriate.

9. If within 30 days from the date of this Amended Final Judgment the records of this Court reflect the satisfaction by S. M. Bird, Jr. provided by the foregoing paragraph number 8 of this Amended Final Judgment, but do not reflect satisfaction of the \$1,914.44 money judgment in favor of The Roomakers Corporation, together with the accrued and accruing interest thereon, all as stated in the foregoing paragraph number 6 of this Amended Final Judgment, then the lien in favor of The Roomakers Corporation, as declared and imposed by the foregoing paragraph number 6 of this Amended Final Judgment, shall be foreclosed by judicial sale of the real estate subject thereto. As to such real estate so sold, such sale shall extinguish all right, title and interest of Johnny W. O'Grady, Jr. and Linda L. O'Grady, the lien in favor of The Roomakers Corporation declared in the foregoing paragraph number 6 of this Amended Final Judgment, the mortgage lien of First Federal Savings and Loan Association of Bessemer described in the foregoing paragraph number 6 of this Amended Final Judgment, and all other liens and encumbrances against such real estate.

Such foreclosure sale to be by the Clerk of this Court at public auction in the usual and customary manner for a Court sale of real estate. The purchaser at such sale will be furnished with an Owner's Policy of title insurance, the cost of which will be part of the costs in this Court. Within 10 days after such sale, a report of such sale shall be submitted by said Clerk for confirmation by this Court. Following confirmation, said Clerk will deliver a deed to the purchaser and will distribute the sale proceeds in accordance with [REDACTED] Amended Final Judgment [REDACTED] the subsequent confirmation order.

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The proceeds of such foreclosure sale shall be applied in the following order: First, in payment of or toward the \$1,914.44 money judgment in favor of The Roomakers Corporation, together with the accrued and accruing interest thereon, as stated in the foregoing paragraph number 6 of this Amended Final Judgment; Second, in payment of or toward the unpaid indebtedness secured by the mortgage held by First Federal Savings and Loan Association of Bessemer, as described in the foregoing paragraph 6 of this Amended Final Judgment; and, Third, the remainder, if any, to the Defendant Johnny W. O'Grady, Jr.

The indebtedness due to The Roomakers Corporation under its said money judgment and the indebtedness due to First Federal Savings and Loan Association of Bessemer under its said mortgage, will be reduced by such foreclosure sale and distribution of sale proceeds only in the amount, if any, actually paid by said Clerk to each such creditor.

If within 30 days from the date of this Amended Final Judgment the records of this Court do not reflect a satisfaction of the judgment debt due The Roomakers Corporation, then Johnny W. O'Grady, Jr., Linda L. O'Grady, their family members and all persons holding possession of any part of the real estate subject to the lien of The Roomakers Corporation, as described in the foregoing paragraph 6 of this Amended Final Judgment, are hereby ordered to vacate such real estate on the 31st day after the date of this Amended Final Judgment, taking with them all of their personal property, and in doing so neither Johnny W. O'Grady, Jr. or any other such person shall cause or allow any damage to or remove any part or portion of any of such real estate or any permanent fixture or attachment thereto, and failure of Johnny W. O'Grady, Jr. or any other such person to abide by this order or any part thereof will subject Johnny W. O'Grady, Jr. and each other such person to punishment for contempt of this Court. Further, on such 31st day the Sheriff of Shelby County is directed, under Writ of Injunction to be issued by the Clerk of this Court, to post written notice of this injunctive order on the front door of the block house situated upon this real estate, and to insure that such notice remains posted until the Clerk's deed is delivered

to the purchaser at the foreclosure sale. The Sheriff is also directed to inspect the premises at the time of posting such notice and at reasonable intervals thereafter, as necessitated by the circumstances then existing, to determine the occupancy and condition of the premises. If any such inspection reveals to the Sheriff a violation of this injunctive order and the identity of the violator, then the Sheriff is ordered to take such violator into his custody and bring such person before this Court at the first opportunity for such contempt proceedings as deemed appropriate by this Court; if, however, a violation of this injunctive order is revealed, but the violator is not known to the Sheriff, then the Sheriff will report the facts of such violation to this Court or its Clerk at his first opportunity for such action as may be appropriate.

10. If within 30 days from the date of this Amended Final Judgment the records of this Court do not reflect satisfaction of the \$16,883.84 portion of the money judgment in favor of S. M. Bird, Jr., together with the accrued and accruing interest thereon, all as stated in the foregoing paragraph 7 of this Amended Final Judgment, then the lien in favor of S. M. Bird, Jr., as declared and imposed by the foregoing paragraph 7 of this Amended Final Judgment, shall be foreclosed by judicial sale of the barn subject thereto. Such sale of said barn shall extinguish all right, title and interest of Johnny W. O'Grady, Jr. or Linda L. O'Grady therein and shall be free and clear of all liens and encumbrances against the land upon which the barn is located, and shall be consummated under the separability and removal provisions of Section 35-11-211, 1975 Code of Alabama.

Such foreclosure sale to be by the Clerk of this Court at public auction in the usual and customary manner as for a Court sale of real estate, the cost of which will be part of the Court costs in this case. Within 10 days after such sale, a report of such sale shall be submitted by said Clerk for confirmation by this Court. Following confirmation, said Clerk will deliver an instrument of conveyance to the purchaser and will distribute the sales proceeds in accordance with this Amended Final Judgment and the subsequent confirmation order.

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The proceeds of such foreclosure sale shall be applied in the following order: First, in payment of or toward the \$16,883.84 portion of the money judgment in favor of S. M. Bird, Jr., together with the accrued and accruing interest thereon, as stated in the foregoing paragraph 7 of this Amended Final Judgment; and, Second, the remainder, if any, to the Defendant Johnny W. O'Grady, Jr.

The indebtedness due to S. M. Bird, Jr. under this portion of his said money judgment will be reduced by such foreclosure sale and distribution of sale proceeds only in the amount, if any, actually paid by said Clerk to S. M. Bird, Jr.

Within a reasonable time after such judicial sale, the purchaser at such sale may separate and remove the barn from the land upon which it is situated, and in doing so the purchaser, and the purchaser's employees, agents or independent contractors, shall have a reasonable right of access for a reasonable length of time over and across the land shown as Parcel "B" on the survey marked and filed this date as Court's Exhibit 1 and the land lying between the North line of said Parcel "B" and the public gravel road lying to the North thereof. Further, the Defendants, and all persons acting on behalf of or in concert with any Defendant, are hereby enjoined from interfering with the purchaser in the exercise of the purchaser's right to separate and remove said barn from said land and in exercise of the purchaser's reasonable right of access to said barn.

If within 30 days from the date of this Amended Final Judgment the records of this Court do not reflect a satisfaction of this portion of said judgment debt due S. M. Bird, Jr., then Johnny W. O'Grady, Jr., Linda L. O'Grady, their family members and all persons holding possession of said barn or having personal property in said barn that is not a permanent fixture or attachment thereto, are hereby ordered to vacate said barn on the 31st day after the date of this Amended Final Judgment, taking with them all of their personal property, and in doing so neither Johnny W. O'Grady, Jr. or any other such person shall cause or allow any damage to or remove any part or portion of such barn or any permanent fixture or attachment thereto, and failure of Johnny W. O'Grady, Jr. or any other such



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person to abide by this order or any part thereof will subject Johnny W. O'Grady, Jr. and each other such person to punishment for contempt of this Court. Further, on such 31st day the Sheriff of Shelby County is directed, under Writ of Injunction to be issued by the Clerk of this Court, to post written notice of this injunctive order on the front door of said barn, and to insure that such notice remains posted until the Clerk's instrument of conveyance is delivered to the purchaser at the foreclosure sale. The Sheriff is also directed to inspect the barn at the time of posting such notice and at reasonable intervals thereafter, as necessitated by the circumstances then existing, to determine the occupancy and condition of the barn. If any such inspection reveals to the Sheriff a violation of this injunctive order and the identity of the violator, then the Sheriff is ordered to take such violator into his custody and bring such person before this Court at the first opportunity for such contempt proceedings as deemed appropriate by this Court; if, however, a violation of this injunctive order is revealed, but the violator is not known to the Sheriff, then the Sheriff will report the facts of such violation to this Court or its Clerk at his first opportunity for such action as may be appropriate.

11. No change.

12. No change.

13. No change; however, the records of this Court reflect that said sanction has been fully complied with.

14. No change.

15. No change, except that the \$300.00 fee awarded to the Court Appointed Surveyor by paragraph number 12 of the initial Judgment is hereby taxed to the Plaintiff, for which let execution issue.

16. No change.

IT IS FURTHER ORDERED AND ADJUDGED by this Court that (a) The Clerk of this Court cause a certified copy of this Amended Final Judgment to be recorded in the Mechanics Lien Records in the Office of the Judge of Probate of Shelby County, Alabama and indexed in the direct index both under the name of S. M. Bird, Jr. d/b/a Bird

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Building Material Company and under the name The Roomakers Corporation and in the indirect index under the name of Johnny W. O'Grady, Jr., and that the cost of so recording this Amended Final Judgment be taxed as part of the Court costs in this cause; (b) the cost of appeal be taxed in accordance with the Certificate of Judgment to this Court entered on January 26, 1982 by the Supreme Court of Alabama, as amended on February 2, 1982, for which let execution issue accordingly; and, (c) that the Clerk of this Court serve a copy of this Judgment by mail upon the Attorneys of Record for all parties in this cause and also cause a copy thereof to be personally served by the Sheriff upon Johnny W. O'Grady, Jr.

DONE AND ORDERED on this 10 day of February, 1982.

*Harold E. Holden*  
Circuit Judge

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

1982 FEB 10 AM 11:38

*Thomas A. Shouder, Jr.*  
JUDGE OF PROBATE

Rec. 22.50  
Ind. 1.00  
23.50