

ST 1426  
4/2/83

STATE OF ALABAMA )  
SHELBY COUNTY )

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, That EDWARD ALLEN FULTON and wife, BETTY J. FULTON (hereinafter called Sellers), in consideration of the sum of THREE THOUSAND, THREE HUNDRED SIXTY-TWO & 50/100 (\$3,362.50) DOLLARS, in hand paid by GEORGE F. SEIER (hereinafter called Buyer), the receipt and sufficiency whereof is hereby acknowledged, the Sellers do hereby grant, sell, transfer and deliver unto the Buyer, as is, where is, the following described property, to-wit:

BOOK 347 PAGE 64

One (1) barn, formerly owned by Johnny W. O'Grady, Jr. and presently located on the former real estate of Johnny W. O'Grady, Jr., situated in Shelby County, Alabama, which barn and said real estate are more specifically described in the Clerk's Instrument of Conveyance to S. M. Bird, Jr., dated April 20, 1982, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof, and in that subsequent Bill of Sale from said S. M. Bird, Jr. to the Sellers herein, dated March 22, 1983, a copy of which is attached hereto as Exhibit "C" and made a part hereof, together with all rights, easements and privileges to separate and remove said barn from the land upon which it is situated, as more fully described in the attached Exhibit "A" and in the subsequent Judgment to the Court dated September 14, 1982 entered in response to motion by George F. and Page Seier, a true and correct copy of which is attached hereto as Exhibit "B" and made a part hereof.

TO HAVE AND TO HOLD said property unto the Buyer, his heirs, executors, and assigns forever.

Sellers covenant and agree with Buyer that Sellers are seized of a good and merchantable title in and to the property conveyed by this Bill of Sale, and Sellers further warrant that this conveyance is valid and that this sale is made free and clear of any and all liens or encumbrances, except the specific provisions for removal of said barn from the real estate upon which it is situated not later than April 20, 1983, as stated in Exhibit "B" hereto.

IN WITNESS WHEREOF, the Sellers have executed this Bill of Sale on this 12<sup>th</sup> day of April, 1983.

WITNESSES:

[Signature]  
[Signature]  
Oliver Head

[Signature]  
Edward Allen Fulton  
[Signature]  
Betty J. Fulton

George F. Seier  
Rt. 4 Box 766  
Alabama  
35007

Exhibit "C"

STATE OF ALABAMA )  
SHELBY COUNTY )

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that S. M. BIRD, JR. (hereinafter called Seller), in consideration of execution of real estate sales contract of even date and the sum of One and No/100 (\$1.00) Dollar in hand paid by EDWARD ALLEN FULTON and BETTY J. FULTON (hereinafter called Buyers), the receipt and sufficiency whereof is hereby acknowledged, the Seller does hereby grant, sell, transfer and deliver unto Buyers, AS IS, WHERE IS, the following property, to-wit:

BOOK 347 PAGE 65

One (1) barn, formerly owned by Johnny W. O'Grady, Jr. and presently located on the former real estate of Johnny W. O'Grady, Jr., situated in Shelby County, Alabama, which barn and said real estate are more specifically described in the Clerk's Instrument of Conveyance to S. M. Bird, Jr. dated April 20, 1982, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof, together with all rights, easements and privileges to separate and remove said barn from the land upon which it is situated, as more fully described in the attached Exhibit "A" and in the subsequent Judgment to the Court dated September 14, 1982 entered in response to motion by George F. and Page Seier, a true and correct copy of which is attached hereto as Exhibit "B" and made a part hereof.

TO HAVE AND TO HOLD said property unto the Buyers, their heirs, executors and assigns forever.

Seller covenants and agrees with Buyers that Seller is seized of a good and merchantable title in and to the property conveyed by this Bill of Sale, and Seller further warrants that this conveyance is valid and that this sale is made free and clear of any and all liens or encumbrances, except the specific provisions for removal of said barn from the real estate upon which it is situated not later than April 20, 1983, as stated in Exhibit "B" hereto.

IN WITNESS WHEREOF, the Seller has executed this Bill of Sale on this 22nd day of March, 1983.

WITNESSES:

Patricia C. Bird  
Walter H. Norton, Jr.

S. M. Bird, Jr.  
S. M. Bird, Jr.

STATE OF ALABAMA )  
SHELBY COUNTY )

CLERK'S INSTRUMENT OF CONVEYANCE

WHEREAS, by the Amended Final Judgment of the Circuit Court of Shelby County, Alabama, rendered on the 10th day of February, 1982 in Case No. CV-78-187, styled: S. M. Bird, Jr., individually, and doing business as Bird Building Material Company, 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; and The Roomakers Corporation; et al, Defendants, the Clerk was ordered to sell the barn of Johnny W. O'Grady, Jr. situated upon the following described land; and,

WHEREAS, in pursuance to said Amended Final Judgment, the Clerk did give notice of the time, place, terms and conditions of sale by advertising the same once a week for three consecutive weeks in the Shelby County Reporter, a newspaper published and having general circulation in Shelby County, Alabama; and,

WHEREAS, in pursuance of said Amended Final Judgment and said advertisement, the Clerk did offer said barn for sale at public outcry to the highest bidder, for cash, in front of the front door of the Shelby County Courthouse in Columbiana, Alabama on April 7, 1982, at which time and place S. M. Bird, Jr. became the highest, best and last bidder for said barn at and for the sum Five Thousand One Hundred and No/100 (\$5,100.00) Dollars; and,

WHEREAS, the said purchaser has paid to the undersigned Clerk the sum of \$5,100.00, and said sale has been ratified and confirmed by that certain order of the Circuit Court of Shelby County, Alabama, rendered on this date;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, I, Kyle Lansford, Clerk of the Circuit Court of Shelby County, Alabama, in consideration of the premises and the sum of Five Thousand One Hundred and No/100 (\$5,100.00) Dollars, do hereby grant, sell and convey, and by these presents have granted sold and conveyed unto said S. M. BIRD, JR. full and complete title to the barn of Johnny W. O'Grady, Jr., free and clear of all liens and encumbrances and superior to all other ownership rights in and to said barn, which said barn is situated upon the following described real estate in Shelby County, Alabama, to-

Exhibit "A"

BOOK 347 PAGE 66

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 fram barn contained within the lines of Parcel "B" occupying .062 acres, yielding a net area of 1.00 acres outside the said barn.

PROVIDED, HOWEVER, no part of the land upon which said barn is situated nor any land surrounding said barn is conveyed by this instrument or subject to said sale.

TO HAVE AND TO HOLD unto the said S. M. Bird, Jr., his heirs and assigns forever, together with the right to separate and remove said barn from the land upon which it is situated within a reasonable time and to enjoy the easements and privileges over the adjoining land, as declared in paragraph number 10 of said Amended Final Judgment entered by this Court on February 10, 1982.

WITNESS my hand this 20th day of April, 1982.

Kyle Lansford  
Clerk of the Circuit Court of  
Shelby County, Alabama

STATE OF ALABAMA     )  
SHELBY COUNTY        )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Kyle Lansford, whose name is signed to the foregoing conveyance as Clerk of the Circuit Court of Shelby County, Alabama, and who is known to me, acknowledged before me on this day, that being informed of the contents of the conveyance, he, in his capacity as such Clerk, executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal this the 20th day of April, 1982.

Margaret Rivers  
Notary Public



BOOK 347 PAGE 67

S. M. BIRD, JR., individually,  
and d/b/a BIRD BUILDING  
MATERIAL CO.,

Plaintiff,

vs.

LINDA L. O'GRADY; JOHNNY W.  
O'GRADY, JR.; GEORGE F. SEIER;  
PAGE SEIER; et al,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. CV-78-187

JUDGMENT ON RULE 60(b) MOTION

This cause coming on to be heard on August 10, 1982 upon the motion filed in this cause on July 26, 1982 by the Defendants George F. and Page Seier ("Seier") pursuant to Rule 60(b) of the Alabama Rules of Civil Procedure seeking relief from the operation of a designated paragraph within paragraph number 10 of the Amended Final Judgment entered in this cause on February 10, 1982. At this hearing Seier offered no evidence, but the Court determined the legal contentions of Seier to be that the designated paragraph is oppressive because it does not specify that those removing the barn (a) will do so within a definite time and with reasonable regard for the land now owned by Seier, or (b) will do so completely and leave the land now owned by Seier clear and clean substantially as it would have been had said barn not been constructed. Based upon these legal contentions, Seier urges the Court to amend or reform the designated paragraph. Thereupon, the Court took this case under advisement and after considering the same is of the opinion and so finds that it can and should exercise jurisdiction under this Rule 60(b) Motion and should (1) reform the designated paragraph in certain respects under the first contention made by Seier, but (2)

Exhibit "B"

BOOK 347 PAGE 68

that in view of Section 35-11-211, 1975 Code of Alabama, and the posture of this case, Seier is not entitled to any affirmative relief under the second contention seeking an order requiring the barn be completely removed from the land so as to leave the land clear and clean substantially as it would have existed if the barn had not been constructed.

It is, therefore, CONSIDERED AND ORDERED by the Court as follows:

1. That the designated paragraph of paragraph number 10 of the Amended Final Judgment entered by this Court on February 10, 1982 be and the same is hereby amended to state as follows:

"Within one year after confirmation by the Court on April 20, 1982 of such judicial sale of the barn, the purchaser at such sale or such purchaser's assignee may separate and remove the barn from the land upon which it is situated, and in doing so such purchaser or such purchaser's assignee, and the employees, agents or independent contractors of either, shall (1) have reasonable regard for the land and (2) have a reasonable right of access over and across the land shown as Parcel "B" on the survey marked and filed 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, provided that such reasonable right of access shall be exercised within a 45 consecutive day period beginning on the day the first work toward removal commences and ending on the 45th day thereafter. Provided further that the Court reserves jurisdiction to extend the specified one-year period or the 45 consecutive day period upon proper petition by such purchaser or such purchaser's assignee and a showing of extraordinary circumstances. Further, the Defendants, and all persons acting on behalf of or in concert with any Defendant, are hereby enjoined from interfering with such purchaser or such purchaser's assignee in the exercise of the right to separate and remove said barn from said land and in exercise of the reasonable right of access to said barn."

2. That in all other respects this Motion be and the same is hereby denied.

3. That the cost of the proceedings on this Motion be and the

same are hereby taxed against the Defendants George F. and Page Seier, for which let execution issue.

4. That the Clerk of this Court serve a copy of this Judgment by mail upon the Attorneys of Record for all parties.

DONE AND ORDERED this 14 day of September, 1982.

*Richard E. Owen*  
Circuit Judge

FILED IN OFFICE THIS THE 14 DAY  
OF September, 19 82

*Kyle D. ...*

Clerk of Circuit Court  
Shelby County, Alabama

BOOK 347 PAGE 70

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

1983 MAY -9 PH 3:40

*Thomas A. ...*  
CLERK OF PROBATE

*Dead tax - 3.50*  
*Rec 10.50*  
*Ind. 1.00*  

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*15.00*