

1359 SEP 20 1985

SAM DIXON, as Trustee for the
benefit and to the use of Jason
Wayne Hunds (a minor) and
Richard Austin Hunds; MARY FRANCES
DISON HINDS, as mother and
custodian of Jason Wayne Hinds (a
minor); and Richard Austin Hunds,

Plaintiffs,

VS

BOBBY L. HINDS, ROBERT LEE HINDS,
and JERRY W. HINDS, as Trustee
for the benefit and to the use
of Jason Wayner Hinds (a minor)
and Richard Austin Hinds,

Defendants.

IN THE CIRCUIT COURT FOR

SHELBY COUNTY, ALABAMA

CIVIL ACTION NUMBER

FILED IN OFFICE THIS THE 19th DAY
OF September, 1985

Kyle Lunsford

Clerk of Circuit Court
Shelby County, Alabama

CV-85-023(E)

JUDGMENT AND ORDER

Jerry Hinds, pursuant to the terms of divorce of Jerry W. Hinds and Mary Hinds, conveyed certain real property to himself and to Sam Dixon, as Trustees for the minor sons of Jerry and Mary Hinds, Jason Wayne Hinds and Richard Austin Hinds. Included in that conveyance was the following language: "However, grantor-defendant reserves the right to sell the twenty acres along with the balance of the inheritance property, and put the full proceeds into the aforementioned trust account...." On November 26, 1984, Jerry Hinds conveyed the subject acreage to his brother, Bobby Hinds and Bobby's son, for \$14,000.00 down and a non-interest bearing promissory note to pay the balance on November 26, 1985. Trustee Sam Dixon, and Richard Austin Hinds, no longer a minor, have sued the defendants, seeking to have this court set aside the sale of the subject acreage.

It is the finding of the court that the conveyance to Jerry Hinds and Sam Dixon granted the right to Jerry Hinds to sell the subject property. The right of Jerry Hinds to sell the subject property, however, is not an unqualified right. Every trustee must act in good faith and with the best interest of the cestui que trust in mind.

Jerry Hinds testified that the property is worth \$2500 per acre, Bobby Hinds testified that it is worth \$3000 per acre, and a professional appraiser testified that it is worth \$4800 per acre. The evidence also showed that Bobby and Jerry knew that in 1983 this same real estate appraiser had appraised the property at \$79,500.00, that Bobby Hinds was also aware of the fact that this property was held in trust for the benefit of Richard Austin Hinds and Jason Wayne Hinds, and that no attempt was made by Jerry to sell the property to anyone else or for any other price. The other grantee of this property, Bobby's son, Robert Lee Hinds, contributed nothing to the purchase price.

BOOK 042 PAGE 445

The court is not satisfied that the property in question was sold for the highest attainable price, or even for its market value. There is a great difference between the price the subject property sold for and the value fixed by the expert appraiser. Also, the fact that the appraiser did not take into account the existence and the location of a pipeline easement makes his appraisal less reliable, in the court's opinion, and the court finds that a determination of the reasonable market value would be speculative under this evidence.

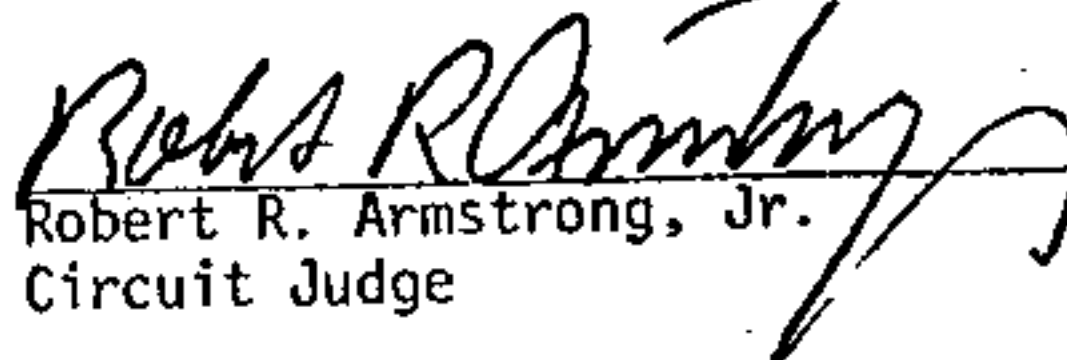
Wherefore, the sale of Jerry W. Hinds to Bobby L. Hinds and Robert Lee Hinds, which sale was recorded in Deed Book 11, Page 483, Probate Office of Shelby County, is hereby set aside and held for naught. It is further ORDERED that Jerry Hinds return to Bobby Hinds the \$14,000.00 down payment which is presently held in some type of bank account.

Further, the court hereby determines that Jerry Hinds has the right to sell the said property, but that, if Jerry Hinds so decides, attempts must be made to sell the property for the highest sales price possible.

Costs of this action are taxed to Jerry Hinds

DONE and ORDERED this 19 day of September, 1985.

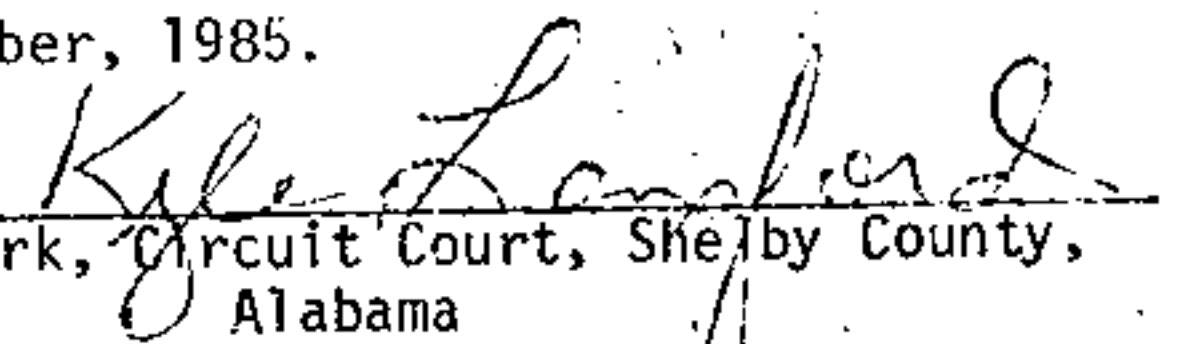
BOOK 042 PAGE 446


Robert R. Armstrong, Jr.
Circuit Judge

STATE OF ALABAMA)
SHELBY COUNTY)

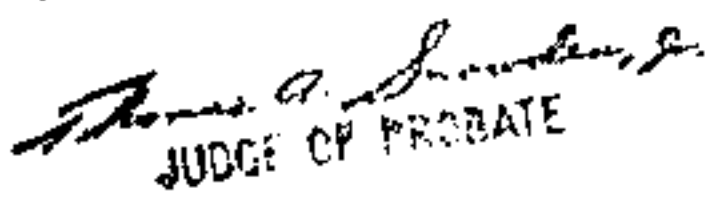
I, Kyle Lansford, Clerk of the Circuit Court for Shelby County, Alabama, do hereby certify that the foregoing is a correct copy of the original Judgment And Order rendered by the Judge of the Circuit Court in the above stated cause, which said Judgment and Order is on file and enrolled in my office.

Witness my hand this 24th day of September, 1985.



Clerk, Circuit Court, Shelby County,
Alabama

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

1985 SEP 24 PM 3:02


JUDGE OF PROBATE

Rec. 500
102
600

FILED IN OFFICE THIS THE <u>19th</u> DAY
OF <u>September</u> , 19 <u>85</u>

Clerk of Circuit Court Shelby County, Alabama