

No 8387. Paulty.

Petition and Motion of
Blanche Tont and Courts
Order thereon.

Filed March 30. 1909.

To the Honorable Judges of Said Court:-

The Petition and Motion of Blanche Tont in her own right and as the Sister and next friend of Fletcher DeGrange, an infant, respectfully Shows unto your Honors:-

1. That they were duly summoned to appear before your Honorable Court on the First Monday in February 1909, and that the said Blanche Tont one of the defendants in the above cause, failing to appear within the time prescribed by the rules of your Honorable Court, a decree Pro-converso was on the 18th day of February 1909, entered against her; and on March 20. 1909, a decree was passed by your Honors appointing a Trustee to sell the property mentioned in these proceedings at public sale; which said sale has been advertised to take on the 17th day of April 1900.

2. That the said Blanche Tont did appear in court on the first day of February 1909, but being unacquainted with the rules of procedure in cases of this kind and not knowing that it was necessary to enter either her personal appearance on the docket within 15 days after the return day in the summons or else appear by solicitor, and relying upon and believing the statement of the Counsel for the Plaintiffs, to whom she applied for information concerning the time when she could appear and be heard, to the effect that she would be notified when to be present and that nothing could be done before the expiration of 15 days and they would give her due and timely notice, and being ignorant of the fact that she was required to appear either in person or by attorney, in 15 days, as aforesaid, she failed to appear, because, as she avers, she relied upon the information given to her by the Counsel for Plaintiffs and expected to be notified as he had promised, and because she did not know what her rights and duties were in the premises.

3. That she, the Blanche Tont, charges and alleges that her failure to appear was not due to any negligence on her part but to the fact that she followed the advice of the Counsel for the Plaintiffs, whom she trusted and believed, and expected to be notified when she should come and make her defense; and she did not know of the existence of a decree to sell the property until she saw the advertisement of sale in the newspaper on Monday last.

4. That she now asks and moves your Honorable Court to strike out and vacate the decree passed on March 20. 1909, for the following reasons.

1. Because the Bill on its face does not contain the necessary allegations to give the court jurisdiction of the subject matter. Since it is nowhere alleged that the property asked to be sold is not ~~subject~~ ^{subject} of Division or partition among the parties; and this fact must be disclosed by the Bill before this Court has jurisdiction