

No. 14268 Equity

"PRINTERS CERTIFICATE" CERTIFICATE OF PUBLICATION

From THE NEWS-POST

Frederick, Md.

BOOK

11 PAGE

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NOTICES

ORDER OF PUBLICATION FRANCIS PETROTT, SOLICITOR NO 14,268 EQUITY

In The Circuit Court Of Frederick County Sitting As A Court Of Equity. Norman B. Clabaugh Vs. Clarence E. Paine and Paul M. Birmingham.

The object of this suit is to procure a decree revoking and cancelling a certain Agreement and Contract of Sale of certain real estate in Frederick County, Maryland, entered into by Will F. Clabaugh, since deceased, father of the Plaintiff, Norman B. Clabaugh, only child and heir, of Jefferson County, West Virginia, and Clarence E. Paine and Paul M. Birmingham, Defendants, whose whereabouts are unknown.

The bill states in substance that on or about November 2, 1931, Will F. Clabaugh, since deceased, father of the Plaintiff, Norman B. Clabaugh, did agree with the said Defendants, Clarence E. Paine and Paul M. Birmingham, to sell and convey unto them the following described property, containing Eighteen Thousand, Seven Hundred and fifty square feet, situated along the south side of the road leading from Frederick City, Maryland, to the beginning of the road known as Ballenger Creek or Point of Rocks road, in Frederick County, Maryland, and being the real estate which was conveyed to Will F. Clabaugh by Oliver B. Palmer and wife by deed dated the 13th day of February, 1931, and recorded in Liber 378, Folio 39, one of the land records of Frederick County.

And a second parcel of land adjoining the one first above described, containing Seventy-five Hundred square feet of land, being the same parcel of land which was conveyed to Will F. Clabaugh by Herbert D. Nusbaum and Helen V. Nusbaum, his wife, by deed dated the 2nd day of November, 1931, the description of which is set forth in said last mentioned deed, for a price of \$2,700 to be paid as follows: \$120. in cash on date of this agreement, and payments of \$120. in cash every three months, beginning February 1, 1932, and each succeeding first day thereafter until the expiration of two years, at the end of which time the unpaid balance was to be paid in full, when a deed of conveyance was to have been made to the said defendants, all of which fully appears in the said contract and agreement, filed and marked, Exhibit A and prayed to be taken as part of the Bill of Complaint.

The said Will F. Clabaugh departed this life on or about the 13th day of April, 1935, and by his Last Will and Testament, bearing date of June 11, 1934, certified copy of which was filed and duly accepted for publication by the Orphans Court for Frederick County, Maryland, and which by virtue of said Last Will and Testament, Norman B. Clabaugh, only child and legal heir of the said Will F. Clabaugh, did inherit the said property, that the said Norman B. Clabaugh, Plaintiff, has been in possession of the property involved since the death of his father and had no knowledge of the said Contract of Sale entered into by his said father and the defendants, until recently when a search of the title was made by a prospective purchaser.

That since the discovery of said Contract of Sale, a diligent search has been made to ascertain the whereabouts of the defendants, but to date, no information as to their identity or whereabouts has been forthcoming.

That the said Defendants, who were transients, as far as can be ascertained, after recording the said Contract of Sale among the land records of Frederick County, failed to make the payments as undertaken and agreed by them and the presumption is, that they have absconded and have not been seen or heard from since.

That the said contract and agreement for the sale of the said property to the Defendants is now recorded in Liber EGH 380, Folio 530, one of the land records of Frederick County, Maryland.

That the plaintiff, the said Norman B. Clabaugh, has made an advantageous sale of the said property so agreed to be sold to the Defendants, but said sale has been defeated by refusal of the purchaser to accept title therein so long as said agreement remains on record unrevoked, and uncanceled.

That while the defendants have not in fact any claim upon, or right in the property mentioned in said contract, the existence of said contract so recorded constitutes, and is such a cloud upon the Plaintiff's title to said lands, that the same are practically useless to him for marketable purposes.

And that the said plaintiff has been unable to procure from the Defendants a voluntary relinquishment of the rights as they appear upon the face of said record, but which do not exist in fact, because said Defendants are non-residents and their whereabouts are unknown. The bill further prays that the aforesaid contract and agreement by and between the said Will F. Clabaugh and the defendants be revoked, cancelled, and set aside, and the record thereof vacated, and the plaintiff be decreed to hold and enjoy his property unaffected thereby. The bill further prays for general relief and for process.

This is to certify. That the annexed Order of Publication was published in The Post

a newspaper published in Frederick County, once a week for four successive weeks prior to the 9th day of January, 1940

THE NEWS-POST
Per W. Moore

Filed January 27, 1941

It is thereupon this 10th day of December, 1940, ordered by the Circuit Court for Frederick County, in Equity, that the Plaintiff, by causing a copy of this order to be inserted in some newspaper published in said Frederick County, one in each of four successive weeks, before the 9th day of January, 1941, giving notice to the said absent defendants and their heirs, of the object and substance of this bill, warning them to appear in this court in person or by solicitor, on or before the 25th day of January, 1941, to show cause, if any they have, why a decree ought not to be passed as prayed.
ELLIS C. WACHTER,
Clerk, Circuit Court for Frederick County.
Francis Petrott, Solicitor.
Filed December 10, 1940
True Copy Test:
ELLIS C. WACHTER,
Clerk.