

\$100.00 toward the cost thereof with the sellers paying any balance." That your Respondents did consider a survey desirable and caused a survey of the property to be made by Draper K. Sutcliffe, a land surveyor doing business under the title of Sutcliffe and Associates. That the said Sutcliffe did make a survey of the said property, a copy of which is filed with the Petition and marked Exhibit B. That the said survey shows that the northern line of the said premises passes through the brick dwelling house now on the property, and shows that four and one-half ($4\frac{1}{2}$) feet of the said house is north of the right-of-way line of U. S. Route No. 40-A. Your Respondents therefore say that the said Vendors and Petitioners do not have a good and marketable title free and clear of all liens and incumbrances in and to the northern four and one-half ($4\frac{1}{2}$) feet of the said house, and that your Petitioners are unable to prepare or have prepared a good and marketable deed describing the property by an accurate description for the reason that the northern line of the said property is in dispute between the Petitioners and the State Roads Commission of Maryland, who are the owners of said U. S. Route 40-A.

FOURTH: Answering the Fourth Paragraph of said Petition, your Respondents say that, unknown to your Respondents, the Petitioners presented a Petition to the Orphans' Court of Frederick County, praying for the immediate ratification of the sale without the publication of the usual order nisi. That your Respondents at no time agreed to the ratification of the said sale by the Orphans' Court without the publication of the usual order nisi, and as soon as your Respondents were advised by the surveyor of the location of the dwelling house and the southern right-of-way of U. S. Route 40-A, the counsel for your Respondents immediately notified counsel for the Petitioners that the Respondents would not carry through the said contract. That the said contract further provided: "It is understood by the parties hereto that this sale must be reported to and ratified by the Orphans' Court of Frederick County, and the parties of the second part Vendees shall not be required to accept title until this sale has been so reported and ratified." That as soon as the Respondents learned of the ratification by the Orphans' Court without the publication of the usual order nisi, your Respondents filed a Petition in the said Orphans' Court praying the said Court to set aside