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27625

CONTRACT—REAL ESTATE

Vol. 11 Page 5610

THIS CONTRACT, Made this 1 day of April, 1977, between HENRY and GERALD WOLFF RANCH, INC.,

and MARK J. MACFARLANE and MARY J. BERRY, not as tenants in common but with the right of survivorship,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in: Klamath County, State of Oregon, to-wit:

Lot 6 in Block 1, TRACT 1118, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

ALSO that portion of Lot 3, described as follows:

Beginning at the Southeast corner of Lot 3; thence North 89° 55' 37" West, 355.35 feet; thence North 50° 06' 19" West, 706.16 feet to the Southwest corner of Lot 6 of said Block 1; thence East 897.43 feet to the Northeast corner of said Lot 3; thence South 453.37 feet to the Point of Beginning.

SUBJECT, however, to the following:

1. The rights of the public in and to that portion of the premises herein described lying within the limits of existing roads.
2. Recitals as contained in Land Status Reports recorded December 15, 1958 in Volume 307, page 481, Deed Records of Klamath County, Oregon, recorded January 18, 1959 in Volume 308, page 529, Deed Records of Klamath County, Oregon, and recorded January 19, 1959 in Volume 308, page 699, Deed Records of Klamath County, Oregon, to wit:

(Description continued on reverse)

for the sum of: Eleven Thousand Six Hundred Sixty and 00/100-----Dollars (\$11,660.00) (hereinafter called the purchase price) on account of which One Thousand One Hundred Sixty Six and 00/100-----Dollars (\$1,166.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit: In monthly installments of \$100.00, or more; thence beginning May 1, 1978 in monthly installments of \$132.00, or more. Payments shall include interest at the rate of 8% per annum on the declining balance. Interest shall start April 1, 1977 with the first payment due and payable May 1, 1977.

The buyer warrants to and covenants with the seller that the real property described in this contract is (A) primarily for buyer's personal, family, household or agricultural purposes.

(B) for any other purpose (even if buyer is a natural person) is for commercial purposes other than agricultural purposes.

All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of eight per cent per annum from April 1, 1977 until paid, interest to be paid monthly and a prepayment to be included in the minimum regular payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer shall be entitled to possession of said lands on April 1, 1977, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than \$-----.

----- in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within thirty days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record; if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

Henry and Gerald Wolff Ranch, Inc.
Star Route Box 77A
Chiloquin, OR 97624

SELLER'S NAME AND ADDRESS

Mark J. Macfarlane & Mary J. Berry

BUYER'S NAME AND ADDRESS

After recording return to:

MTC - Miller

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address:

Mark J. Macfarlane and Mary J. Berry
2141 Radcliff
Klamath Falls, OR 976

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of _____, ss.

I certify that the within instrument was received for record on the day of _____, 19____,

at _____ o'clock _____ M., and recorded in book _____ on page _____ or as file/reel number _____.

Record of Deeds of said county.

Witness my hand and seal of County affixed.

Recording Officer

By _____ Deputy

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within ten days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price, with the interest thereon at once due and payable and for (3) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer of return, reclamation or compensation for moneys paid of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments therefor made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$11,660.00. ~~However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which).~~

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Mark J. Macfarlane
Mark J. Macfarlane
Mary J. Berry
Mary J. Berry

Henry Wolff
Henry Wolff, Pres.
Gerald Wolff
Gerald Wolff, Sec.

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON,

County of Klamath ss.
April 1, 1977

STATE OF OREGON, County of Klamath ss.
April 1, 1977

Personally appeared Henry Wolff and
Gerald Wolff

who, being duly sworn,
each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of Henry and Gerald Wolff Ranch, Inc.

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:
John A. Kahla
John A. Kahla
Notary Public for Oregon
My commission expires: July 16, 1980

and acknowledged the foregoing instrument to be their voluntary act and deed.
Before me:
Susan A. Schwell
Susan A. Schwell
Notary Public for Oregon
My commission expires 6-13-80

Section 4 of Chapter 418, Oregon Laws 1975, provides:
"(1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the owner of the title being conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.
"(2) Violation of subsection (1) of this section is a Class B misdemeanor."

(DESCRIPTION CONTINUED)

"The above described property is subject to any existing easements for public roads and highways, for public utilities, and for railroads and pipe lines and for any other easements or rights-of-way of record; and there is hereby reserved any and all roads, trails, telephone lines, etc., actually constructed by the United States, with the rights of the United States to maintain, operate or improve the same so long as needed or used for or by the United States. (Dept. Instr., January 13, 1916, 44 L.D. 513)"

3. Right-of-way for pole and wire lines and other facilities for the transmission and distribution of electricity and incidentals, 15 feet wide, as conveyed to the California Oregon Power Company by deeds recorded November 9, 1961 in Volume 333, page 561, Deed Records of Klamath County, Oregon, and in Volume 333, page 563, Deed Records of Klamath County, Oregon. (General Location)

4. Recital in the deed from the United States of America recorded April 23, 1976 in Volume M76, Page 6028, Microfilm Records of Klamath County, Oregon, to wit:

"Title to the above-described property is conveyed subject to any existing easements for public roads and highways, for public utilities, and for railroads and pipe lines and for any other easements or rights-of-way of record."

5. Covenants, Conditions, Restrictions and Easements, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, including the terms and provisions thereof, recorded July 1, 1976 in Volume M76, page 10037, Microfilm Records of Klamath County, Oregon, as follows:

"(1) Reserving to Henry Wolff, Gerald Wolff, Gerry Warren Wolff and Eric Wolff, hunting and fishing rights on the above described real property;

(2) Reserving a right of ingress and egress upon and across the above described property for the purposes of keeping and maintaining the irrigation ditches on said real property, and construction of same.

(3) Reserving to Henry and Gerald Wolff Ranch, Inc. one-half of all mineral rights located on said property."

6. An easement, including the terms and provisions thereof, for road purposes, as shown dedicated plat. (Affects Easterly 60 feet of Lot 6 and Easterly 60 feet and Southernly 60 feet of Lot 3.)

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STATE OF OREGON, COUNTY OF KLAMATH, ss.
Filed for record at request of MOUNTAIN TITLE CO
this 4th day of APRIL 1977 A. D. 4:10 o'clock P.M. and
duly recorded in Vol' M 77 of DEEDS on Page 5610
FEE \$ 9.00 Wm D. MILNE, County Clerk
Hazel Drazic

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