

TK

33949

CONTRACT—REAL ESTATE

Vol. 11 Page 14609



THIS CONTRACT, Made this 4th day of August, 19 77, between  
George A. Pondella, Jr., hereinafter called the seller,

and Jimmy Lee Scott and Joanne Scott, husband and wife, hereinafter called the buyer,

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: Section 28, that part of N $\frac{1}{2}$  of SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  that lays West of Highway 97, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Subject, however, to the following:

1. Reservations as contained in deed June 4, 1958 in Volume 299, page 616, Deed Records of Klamath County, Oregon, to-wit:

"Subject to the reservations of all subsurface rights, except water, to the heirs of Francis Isaacs, their heirs and assigns, under the terms approved by the Secretary of the Interior, March 25, 1946, pursuant to said Act. Subject to such rights as the Pacific Telephone and Telegraph Company may have under the Act of March 3, 1901 (31 Stat. 1083)."

2. Reservations as set forth in instrument recorded April 5, 1968 in Volume M68, page 2701, Microfilm Records of Klamath County, Oregon, to-wit:

"This conveyance made subject to easement, rights of way of record, those apparent on the land, and a thirty foot wide meandering easement west of existing road for ingress and egress."

for the sum of Six Thousand Five Hundred and No/100ths--Dollars (\$6,500.00...) (hereinafter called the purchase price), on account of which One Thousand Three Hundred and Dollars (\$1,300.00...) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$5,200.00...) to the order of the seller in monthly payments of not less than SEVENTY-FIVE AND NO/100THS--Dollars (\$75.00...) each, or more, prepayment without penalty,

payable on the 15th day of each month hereafter beginning with the month of September, 19 77, and continuing until said purchase price is fully paid. 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 8% per cent per annum from August 15, 1977 until paid, interest to be paid monthly and \* being included in the minimum monthly 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 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 an organization or for use of buyer as a natural person in business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on closing, 19 77, 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 liens 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 \$ value 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 30 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 covenants 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)

\*IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures for this purpose, use Stevens-Neess Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Neess Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

MTC  
Attn: Marlene

NAME, ADDRESS, ZIP

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

Mrs. Mrs. Jimmy Lee Scott  
3311 Hemetale Road  
City, 97601

NAME, ADDRESS, ZIP

SPACE RESERVED  
 FOR  
 RECORDER'S USE

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.

By Recording Officer  
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/or (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 revert to and vest in said seller without any act 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 theretofore 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 \$6,500.00. ~~However, the actual consideration is the value of the property transferred, which is the whole of the property transferred, and the value of the property transferred is the value of the property transferred, which is the whole of the property transferred.~~

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 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.

George A. Pondella, Jr.

Jimmy Lee Scott

Joanne Scott

Joanne Scott

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

STATE OF OREGON,

County of Klamath  
August 11, 1977

Personally appeared the above named George A. Pondella, Jr., Jimmy Lee Scott and Joanne Scott

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me, *Arden D. Addington*  
(OFFICIAL SEAL) Notary Public for Oregon  
My commission expires 3-22-81

STATE OF OREGON, County of \_\_\_\_\_ ss.

Person \_\_\_\_\_ who, being duly sworn, did say that the former is the \_\_\_\_\_ and that the latter is the \_\_\_\_\_ of \_\_\_\_\_, a corporation, \_\_\_\_\_ is the corporate seal \_\_\_\_\_ was signed and sealed in \_\_\_\_\_ of directors; and each of them \_\_\_\_\_ voluntary act and deed.

(OFFICIAL SEAL)  
Notary Public  
My commission expires \_\_\_\_\_

Section 4 of Chapter 618, 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)

It is further agreed by and between the parties hereto that no merchantable timber shall be cut, or removed from said property, until the balance of this contract is paid in full.

3. Real Estate Contract, including the terms and provisions thereof, dated May 1, 1977, recorded June 6, 1977 in Volume M77, page 9775, Microfilm Records of Klamath County, Oregon, between Frank Faulkner, Vendor and George A. Pondella, Jr., Vendee, which Buyers do not assume and agree to pay, and Seller further covenants to and with Buyers that the said prior mortgage shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment of this contract.

TOGETHER WITH and easement 30 feet in width and being 15 feet on each side of the following described center line:

Beginning at the intersection of said center line and the West right of way line of U.S. Highway 97, said center line being 15 feet North of the Southerly line of the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence from point of beginning West to a point 15 feet East of the Westerly line of the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence North 660 feet to a point that is 15 feet North of the Southerly line of the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence West 690 feet; thence South 15 feet to the Northerly line of the S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 28, Township 34, South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 11th day of AUGUST A.D., 1977 at 11:43 o'clock A.M., and duly recorded in Vol. M77 220, of DEEDS on Page 14609.

FEE \$ 6.00

WM. D. MILNE, County Clerk

By *Harold L. Craig* Deputy