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34996

CONTRACT—REAL ESTATE

Vol. 77 Page 16100

THIS CONTRACT, Made this 11th day of July, 1977, between James L. Doyal and Colleen N. Doyal, husband and wife and George A. Pondella, Jr. and Donald E. Bailey, each as to an undivided one-half interest

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: N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon

Subject, however, to the following:

1. Rights of the public in and to any portion of said premises lying within the limits of roads and highways.
2. Reservations, including the terms and provisions thereof, for pole line easement of Pacific Telephone & Telegraph Company Forest Service road, set forth in Deed recorded June 26, 1958, and in Deed Volume 300 at page 357.
3. Reservations of all subsurface rights, except water in trust of Chauncy Miller Lotches, as set forth in Deed recorded June 26, 1958, in Deed Volume 300, at page 337.
4. Unrecorded Contract of Sale dated _____, between Gienger Enterprises, Inc., as Seller, and James L. Doyal and Colleen N. Doyal, as Buyers, which Buyers do not assume and agree to pay, and Sellers further covenant 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;

for the sum of Thirteen Thousand Nine Hundred and No/100ths Dollars (\$13,900.00) (hereinafter called the purchase price), on account of which Two Thousand Seven Hundred Eighty Dollars (\$2,780.00) 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: \$11,120.00) to the order of the seller in monthly payments of not less than ONE HUNDRED THIRTY-FIVE and NO/100THS Dollars (\$135.00) each, or more,

payable on the 15th day of each month hereafter beginning with the month of August, 1977, 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 July 15, 1977

until paid, interest to be paid monthly and * ~~being included~~ 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 investment purposes, or for business or commercial purposes, or for both investment and business or commercial purposes.

The buyer shall be entitled to possession of said lands on July 15, 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 mechanics 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 \$ _____

None 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 taxes, 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 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)

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, at such time as 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-Ness 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-Ness Form No. 1307 or similar.

JAMES L. DOYAL, ET UX
2282 E. 6175 South,
Ogden, Utah

SELLER'S NAME AND ADDRESS

George A. Pondella, et al
P. O. Box 286
Chiloquin, Oregon 97624

BUYER'S NAME AND ADDRESS

Winema Real Estate
Box 376
Chiloquin, Oregon 97624

NAME, ADDRESS, ZIP

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

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
Deputy

By _____

16101

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 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 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 or 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 \$13,900.00. ~~However, the actual consideration consists of or includes other property or value given or promised which is not herein considered and which is:~~

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.

James L. Doyal
James L. Doyal
Colleen N. Doyal
Colleen N. Doyal

George A. Pondella, Jr.
George A. Pondella, Jr.
Donald E. Bailey
Donald E. Bailey

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

STATE OF OREGON, }
County of Webster } ss.
July 13, 1977

STATE OF OREGON, County of _____) ss.
_____, 19____

Personally appeared _____ and _____ 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 _____

_____ 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:

(OFFICIAL SEAL)

Personally appeared the above named _____ and _____ and acknowledged the foregoing instrument to be _____ voluntary act and deed.

Before me: *William K. Cole*
Notary Public for Oregon
My commission expires 12/18/80

Notary Public for Oregon
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)

STATE OF OREGON, }
County of Klamath } ss.

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 11th day of July, 1977, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named George A. Pondella, Jr. and Donald E. Bailey

known to me to be the identical individual B. described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

James B. Kalto
Notary Public for Oregon
My Commission expires 12-22-78

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of TRANSAMERICAN TITLE INC. C)

this 31st day of AUGUST A. D. 1977 at 11:01 o'clock AM, and

duly recorded in Vol. M77, of DEEDS on Page 16100

FEE \$ 6.00

W. D. MILNE, County Clerk

Harold Draz