

75661

CONTRACT—REAL ESTATE

Vol. 79 Page



THIS CONTRACT, Made this 15th day of October, 1979, between Gary Hook and John O'Hearn

and William R. Roberts and Mildred S. Roberts, husband and wife

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 14, Block 1, Tract No. 1118, in the County of Klamath, State of Oregon.

SUBJECT, however, to the exceptions on the attached Exhibit "A".

for the sum of Twenty-Eight Thousand 00/100 Dollars (\$28,000.00.) (hereinafter called the purchase price), on account of which Seven Thousand and 00/100 Dollars (\$7,000.00.) 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: \$21,000.00.) to the order of the seller in monthly payments of not less than Two Hundred Seventy-One and 73/100 Dollars (\$271.73.) each, or more, no prepayment penalty

payable on the 15th day of each month hereafter beginning with the month of November, 1979, 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 9% per cent per annum from October 15, 1979 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 pro-rated 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, and not for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on October 15, 1979, 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 \$10,000 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)

*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-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.

Gary Hook and John O'Hearn
3113 Bristol #15
Klamath Falls, Ore. 97601

SELLER'S NAME AND ADDRESS

William and Mildred Roberts
3321 Mueller Road
Sebastopol, Calif. 95472

BUYER'S NAME AND ADDRESS

After recording return to:

Winema Real Estate
P.O. Box 376
Chiloquin, Oregon 97601

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

William and Mildred Roberts
Rt. 1 Box 38
Bonanza, Ore. 97623

STATE OF OREGON,

County of

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 40 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, (3) to withdraw said deed and other documents from escrow and/or (4) 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 terminate and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and revest 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 money 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 \$28,000.00

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

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

IN WITNESS WHEREOF, said parties have executed this instrument in triplicate; 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.

Gary Hook
John O. Hearn
William R. Roberts
Mildred S. Roberts

STATE OF OREGON, County of Klamath, ss.
October 15, 1979

Personally appeared the above named Gary Hook and John O. Hearn and William R. Roberts & Mildred S. Roberts, 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 their voluntary act and deed.

Before me, Wanda Bar, Notary Public for Oregon, My commission expires July 14, 1983.

ORS 93.635 (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 conveyer of the title to be 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.

ORS 93.990 (3) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

FOR THE KNOW OF (DESCRIPTION CONTINUED)

EXHIBIT: POWER OF ATTORNEY TO THE EXECUTION OF THE FOREGOING INSTRUMENT.

FOR IV. BLOCK 1, LANCE NO. 1118 IN THE COUNTY OF Klamath, STATE OF OREGON.

WITNESSETH that the undersigned, the said Gary Hook and John O. Hearn, and the said William R. Roberts and Mildred S. Roberts, have caused this instrument to be signed and sealed in their presence and in the presence of the undersigned, and have acknowledged the execution of this instrument to me, the undersigned, a Notary Public for Oregon, and have caused their names to be subscribed to this instrument.

WITNESSETH that the undersigned, the said Gary Hook and John O. Hearn, and the said William R. Roberts and Mildred S. Roberts, have caused this instrument to be signed and sealed in their presence and in the presence of the undersigned, and have acknowledged the execution of this instrument to me, the undersigned, a Notary Public for Oregon, and have caused their names to be subscribed to this instrument.

WITNESSETH that the undersigned, the said Gary Hook and John O. Hearn, and the said William R. Roberts and Mildred S. Roberts, have caused this instrument to be signed and sealed in their presence and in the presence of the undersigned, and have acknowledged the execution of this instrument to me, the undersigned, a Notary Public for Oregon, and have caused their names to be subscribed to this instrument.

SUBJECT, however, to the following,

1. Rights of the public and of Governmental bodies in and to that portion of the herein described property lying below the ordinary high water mark of Sprague River.
2. Any existing easements visible on the ground for roads, pipelines or utilities, to which the property might be subject under provisions of Land Status Report recorded in Book 307 at page 481, Deed Records.
3. Restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, as shown on the recorded plat of Tract No. 1118.
4. Covenants, easements and restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, including the terms thereof,
Recorded : July 1, 1976 Book: M-76 Page: 10037
5. Contract, including the terms and provisions thereof,
Dated : August 11, 1977
Recorded : August 15, 1977 Book: M-77 Page: 14802
Vendor : Henry and Gerald Wolff Ranch, Inc., an Oregon Corporation
Vendee : Gary Hook and John O'Hearn

Buyer does not assume said contract and Seller covenants to hold the Buyer harmless therefrom.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.

this 18th day of October A. D. 1979 at 3:40 clock P. M., in

duly recorded in Vol. M79, of Deeds on Page 24600

Wm D. MILNE, County Clerk

By Bernetha J. Litsch

Fee \$10.50