

TN

88807

CONTRACT—REAL ESTATE

Vol. 780 Page 16071



THIS CONTRACT, Made this 22 day of August, 19 80, between
DELORES M. POLICH (SMITH),

4750 Sumac, Klamath Falls, Oregon 97601, hereinafter called the seller,

and OSCAR EITENEIER,
1911 Eldorado, Klamath Falls, Oregon 97601, 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:

Southerly 17 feet of Lot 31, all of Lot 30, and Northerly 19 feet of Lot 29, all in Block 17 ELDORADO HEIGHTS, commonly known as 1911 Eldorado, Klamath Falls, Oregon. +

For the sum of Fifty-six Thousand and no/100 Dollars (\$56,000.00), hereinafter called the purchase price, of which \$4,000.00 has been paid at the time of the execution hereof, the receipt whereof hereby is acknowledged by the seller; the buyer agrees to pay the balance of said purchase price to the order of the seller at the times and in the amounts as follows, to-wit:

The balance of \$52,000.00, plus accumulated interest at the rate of ten per cent (10%) per annum, due and payable no later than one (1) year from the date of closing herein. In the interim period, Buyer shall pay the sum of \$350.00 monthly or more, which sum shall first be credited toward the above-mentioned interest. Payments shall be due on the 25th day of each month, beginning September 25, 1980. Buyer shall pay all insurance costs and taxes, payment to be made separately from the above monthly payment, and furnish proof thereof to seller.

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.

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 ten per cent per annum from August 25, 1980 until paid, interest to be paid monthly and being included in the minimum regular payments above required. Taxes on said premises for the current year shall be prorated between the parties hereto as of August 25th, 19 80.

The buyer shall be entitled to possession of said lands on August 25, 19 80, 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 premises and the buildings, now or hereafter erected thereon, in good condition and repair and will not suffer or permit any waste or strin thereof; that he will keep said premises free from construction 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 \$ 56,000.00 and 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 said described premises are now subject to a contract or a mortgage (the word mortgage as used herein includes within its meaning a trust deed) *See Reverse Side recorded in the Deed Book 100 Page 100 of said county in book 100 Page 100 on which the unpaid principal balance thereof at this date is \$52,000.00 and interest thereon is \$10,000.00 payable in installments of \$350.00 per month with interest paid monthly on or before the 25th day of each month.

the seller agrees to pay all sums due and to become due on said contract or mortgage promptly at the times required for said payments and to keep said contract or mortgage free from default; should any of the installments on said mortgage so paid by the seller include taxes or insurance premiums on said described premises, the buyer agrees on seller's demand forthwith to repay to the seller that portion of the seller's demand so paid applicable to taxes and insurance premiums; should the seller for any reason permit said contract or mortgage to be or become in default, the buyer may pay any sums required by said contract or mortgage to be paid or otherwise perform said contract or mortgage and the buyer shall be entitled to credit for all sums so paid by him against the sums next to become due on the above purchase price pursuant to the terms of this 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 the usual printed exceptions and the building and other restrictions and easements now of record, if any, and the said contract or mortgage. 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 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 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. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

Delores M. Polich (Smith)
4750 Sumac
Klamath Falls, Oregon 97601
 SELLER'S NAME AND ADDRESS

Oscar Eiteneier
1802 Kimberly
Klamath Falls, Oregon 97601
 BUYER'S NAME AND ADDRESS

After recording return to:

TA Donna

NAME, ADDRESS, ZIP

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

Mr Oscar Eiteneier
1802 Kimberly
Klamath Falls, OR
97601
 NAME, ADDRESS, ZIP

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 100 / volume No. _____ on page _____ or as document/fee/file/instrument/microfilm No. _____, Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME _____ TITLE _____
 By _____ Deputy

SPACE RESERVED
 FOR
 RECORDER'S USE

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 20 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 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 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 provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

Klamath First Federal Savings and Loan Association will collect the Escrow on this transaction and is herewith instructed that upon payment of the balance of this Contract, plus accumulated interest, the executed Warranty Deed held by Klamath First Federal should be released to the Buyer.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$56,000.00. ~~Where the actual consideration is stated in the property deed, the same shall be the consideration for the purpose of this instrument.~~

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 and 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.

Delores M. Polich Smith
Delores M. Polich (Smith), Seller

Oscar Eiteneier
Oscar Eiteneier, Buyer

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

STATE OF OREGON,

County of Klamath) ss.
August 25th, 19 80

Personally appeared the above named

Oscar Eiteneier & Delores
M. Polich Smith

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

Before me:

(OFFICIAL
SEAL)

Notary Public for Oregon
My commission expires 12/24/84

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:
Notary Public for Oregon
My commission expires: _____

(SEAL)

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.

(DESCRIPTION CONTINUED)

*Encumbrances exist on said property, said encumbrances being held by Security Savings and Loan Association. Upon receipt by Klamath First Federal Savings and Loan Association of the total balance due from Buyer, Seller shall satisfy all said encumbrances and hold Buyer harmless therefrom.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.

this 25th day of August A. D. 19 80 at 4:02 clock P. M., in

fully recorded in Vol. M80, of Deeds on Page 16071

Wm D. MILNE, County Clerk

Fee \$7.00

By Bernetha J. Heloch