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CONTRACT—REAL ESTATE

Vol. 178/ Page 14115



THIS CONTRACT Made this 23rd day of July, 1981, between

Frank J. Galsano

hereinafter called the seller,

Donald E. Bailey, as to an undivided one-half interest and George R. Pondella, Jr., as to an undivided one-half interest, 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:

The South 1/2 1/4 Southeast 1/4 of Section 9, Township 41 South, Range 7 East of the Willamette Meridian.

Subject, however, to the following:

1. The rights of the public in and to that portion of the above property lying within the limits of public roadways.

2. Reservation for Right-of-way disclosed by mortgage recorded December 14, 1971 in Volume M71, Page 13110, to-wit:

"A 60 foot right of way shall be reserved to any parcel remaining encumbered hereby. Trustor, his successors or assigns, to pay costs to effect releases."

TOGETHER WITH: an easement 60 feet wide for ingress, egress and utility purposes over, under and across an existing road crossing the West 1/2 of said Section 16, and Sections 17 and 20, Township 48 North, Range 1 West, M.D.B.&M."

3. Mortgage, including the terms and provisions thereof with interest thereon, and such future advances as may be provided therein, given to secure the payment of \$11,135.32

Dated: December 3, 1971

Recorded: December 14, 1971, Volume M71, Page 13110,

Klamath County Microfilm Records

(for continuation of this contract see reverse side of this document)

for the sum of Nine Thousand Five Hundred and No/100ths-----Dollars (\$9,500.00) (hereinafter called the purchase price) on account of which Two Thousand Five Hundred and No/100ths Dollars (\$2,500.00) 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: \$7,000.00) to the order of the seller in monthly payments of not less than ONE HUNDRED FIFTY AND 46/100THS-----Dollars (\$150.46) each, or more, prepayment without penalty,

payable on the 7th day of each month hereafter beginning with the month of September, 1981, 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 10 1/2 per cent per annum from August 7, 1981 until paid, interest to be paid monthly and * { 1/2 per cent per annum 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 primarily for buyer's personal, family, household or agricultural purposes.
(By for an organization or (event) buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on July 31, 1981, 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 strip 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 \$ none 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 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) 8891

*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. 1306 or similar. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Frontier Title

NAME, ADDRESS, ZIP

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

George Pondella, Jr. & Donald E. Bailey

5727 Washburn Way

Klamath Falls, OR 97601

NAME, ADDRESS, ZIP

STATE OF OREGON

CALIFORNIA

County of SAN DIEGO

I certify that the within instrument was received for record on the

day of 19, at o'clock AM, and recorded

in book/reel/volume No. on

page 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

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 interests above described and all other rights acquired by the buyer hereunder shall revert to and be held 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 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 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 true and actual consideration paid for this transfer, stated in terms of dollars, is \$9,500.00. However, the actual consideration consists of the following: 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.

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 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.

STATE OF OREGON, County of Klamath, ss. I, Notary Public for Oregon, do hereby certify that the foregoing instrument was duly acknowledged before me by the parties herein named, to-wit: Frank J. Galgano, Donald E. Bailey, and George A. Pondella, Jr., who, being duly sworn, personally appeared the above named, 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.

Notary Public for Oregon, My commission expires 5-6-84. My commission expires June 18 1985.

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.

Mortgagor: Frank J. Galgano
Mortgagee: Pleasant Enterprises, a limited partnership
which Buyers herein do not assume and agree to pay, and Seller further covenants to and with Buyers herein 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 in full of this contract. Buyers herein specifically agree to pay the full contract balance on or before August 7, 1986.

It is further understood and agreed by the Buyers herein that:
1. There is no DEQ approval on the property.
2. There is no electricity and no well on the property.
3. Buyers waive any access rights, except those set forth herein.
4. That no merchantable timber shall be cut, or removed from said real property unless the proceeds from any such sale shall be paid on the balance due and owing on this contract.

STATE OF OREGON; COUNTY OF KLAMATH; ss.
Filed for record at request of Frontier Title Co.
his 7th day of August, A.D. 1981 at 3:56 o'clock P.M., and
duly recorded in Vol. M81 of Deeds on Page 14115
By Evelyn Diehn, County Clerk
Fee \$7.00