

4840

CONTRACT—REAL ESTATE

Vol. 118 Page 154

THIS CONTRACT, Made this 3rd day of September, 1981, between  
 Jack F. Morris and Nancy L. Morris, husband and wife,

Robert E. Smith and Phyllis A. Smith, husband and wife, hereinafter called the seller,  
 and one-half interest, and William L. Sanders and Erma J. Sanders, an undivided  
 husband and wife, 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 SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 3, Township 33 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 the herein described premises lying within the limits of streets, roads or highways.
2. Reservations and restrictions as contained in Deed recorded February 16, 1959 in Volume 309, page 598, Deed Records of Klamath County, Oregon, including but not limited to the following:

"Subject to right-of-way to the United States for road purposes under Act of February 5, 1948, (62 Stat. 17)."

3. Taxes for the fiscal year 1981-1982, a lien, not yet due and payable;

for the sum of Eighteen Thousand Five Hundred and No/100ths-Dollars (\$18,500.00)  
 (hereinafter called the purchase price) on account of which Five Thousand and No/100ths-  
Dollars (\$ 5,000.00) 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: \$13,500.00) to the order of  
 the seller in monthly payments of not less than TWO HUNDRED THIRTY-SEVEN AND 87/100THS----  
Dollars (\$ 237.87) each, or more, prepayment without penalty.

payable on the 25th day of each month hereafter beginning with the month of 10/25, 1981,  
 and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all de-  
 ferred balances of said purchase price shall bear interest at the rate of 10% per cent per annum from  
9/25, 1981 until paid, interest to be paid monthly and \* in addition to 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.

The buyer shall be entitled to possession of said lands on closing, 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 he will keep said premises and buildings 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 \$ full insurable 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 in  
 uring (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 encumbrances 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 encumbrances 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.

SELLER'S NAME AND ADDRESS  
Robert E. Smith Phyllis A. Smith  
William L. Sanders Erma J. Sanders  
 BUYER'S NAME AND ADDRESS

After recording return to:

M. T. C.

NAME, ADDRESS-ZIP

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

Robert E. Smith  
Box 752  
Phoenix Ariz 85009  
 NAME, ADDRESS, ZIP

STATE OF OREGON,

County of Clatsop

I certify that the within instru-  
 ment was received for record on the  
 day of 10, 1981,  
 at 6 o'clock M., and recorded  
 in book/reel/volume No. 118 on  
 page 154 or as document/fee file/  
 instrument/microfilm No. 118-154,  
 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 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 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 \$ 18,500.00. However, the actual consideration consists of the inclusion of other property or value given or promised which is part of the consideration (indicate which).

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.

Jack F. Morris, Nancy L. Morris, Phyllis A. Smith, William L. Sanders - Erma J. Sanders

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

STATE OF ~~OREGON~~ CALIFORNIA  
OREGON (AK) ss.

County of Klamath  
August 17, 1981.

Personally appeared the above named  
Jack F. Morris and Nancy L. Morris,  
Morris, husband and wife,

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

(OFFICIAL  
SEAL)

Notary Public for Oregon California  
My commission expires July 16, 1981

STATE OF OREGON, ss.

Personally who, being duly sworn,  
each for himself, that the former is the  
and that the latter is the  
a corporation,  
and that the seal of said corporation is the corporate seal  
of said corporation, signed and sealed in behalf of said corporation, and of directors; and each of them acknowledged its voluntary act and deed.

(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)  
This contract is subject to unrecorded Contract of Sale dated March 10, 1972, by and between Leroy Taylor and Alice J. Taylor, husband and wife, Sellers, and George A. Pondella, Jr., Buyer; and unrecorded Contract of Sale dated March 4, 1972 by and between George A. Pondella, Jr., Seller, to Jack F. Morris and Nancy L. Morris, husband and wife, Buyers, which Buyers herein do not assume and agree to pay, and Sellers herein agree to hold Buyers harmless therefrom.

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

STATE OF ~~OREGON~~ ARIZONA

County of Maricopa ss.

BE IT REMEMBERED, That on this 3 day of September, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Robert E. Smith and Phyllis A. Smith, husband and wife, and William L. Sanders and Erma J. Sanders, husband and wife,

known to me to be the identical individual s 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 this 18 day and year last above written.

Notary Public for Arizona  
My commission expires Aug. 2, 1983

17156

STATE OF OREGON; COUNTY OF KIAMATH; ss.

Filed for record at ~~oregon~~ oregon

this 25th day of Sept. A.D. 19 81 at 10:53 clock "A.M."

duly recorded in Vol. M-81 of Deeds on Page 17154

By EVELYN BIEHN, County Clerk

Fee \$12.00