

Miscellaneous Record, No. 23, Madison County, Iowa

Madison County, Iowa.

District Court of Warren Co.

#6029

Filed for record the 5 day of December
A.D. 1941 at 8:04 o'clock A.M.

To

Fee \$1.30 ✓

Chris Seerup et al

Pearl E. Shetterly, Recorder
Wilma M. Wade, DeputyCERTIFIED COPY DECREE IN PARTITION

IN THE DISTRICT COURT OF THE STATE OF IOWA IN AND FOR WARREN COUNTY.

Clara Kammin and
Ella Grove,

Plaintiffs,

vs. Rose Wininger, Elma Sealine, Arthur Bockwoldt, Dora Sinn, Fred Hollingsworth, Neil Pampel,
Raymond Hollingsworth, Orlan Allie, Esther Miller, Arnold Allie, Everal Allie, Ella Hubner,
Leonard Schlegel, Erma Thatcher, Mamie Ballard, Clarence Reischauer, Howard Schlegel, Defendants.

#10574 Equity Decree in Partition.

Now on this 10 day of Sept., 1941, came on this matter for hearing upon the petition of the above named plaintiffs asking that shares be established in the real estate hereinafter described, and that a referee be appointed to sell the same and proceeds divided among parties hereto as their interest may appear or are established by the court, and the court finds:

1. That by reason of certain amendments the description of all the real estate owned by said parties is as follows:

- A. SE $\frac{1}{4}$ of Sec. 5, twp. 77, N. Range 25 West 5th P.M. Iowa, containing 160 acres more or less, except railroad right of way through said 160 acre tract, containing 9.71 acres more or

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- less, leaving a balance of 150.29 acres more or less owned by said parties ^{after set forth.} as herein-
 B. Also $\frac{1}{2}$ of SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ (except S. $\frac{1}{2}$ acres of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$) containing 118 $\frac{1}{2}$ acres more or less, all in Sec. 15, twp. 77 N. Range 26 West of the 5th P.M. Iowa
 C. Also NW frac. $\frac{1}{4}$ of the SW frac. $\frac{1}{4}$ of Sec. 31, twp. 78 North Range 25, (except approximately 2 acres for public roadway crossing NW corner of said frac. 40 acre tract) containing 44.10 acres more or less.
 D. Also undivided $\frac{1}{2}$ interest in the N $\frac{1}{2}$ of NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 13, twp. 77, N. Range 25 West containing 120 acres more or less.
 E. Also Lot 13, In Forest Park in the City of Des Moines, Iowa.

2. That the real estate located Sec. 15, twp. 77, North, Range 26 containing 118 $\frac{1}{2}$ acres and shown at "B" above is subject to easement of Standard Oil Co. of Indiana, and that the land affected by said pipe-line is found by this court in view of Amendment to petition and answer of said company to be: W $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 15 twp. 77 North, Range 26 West 5th P.M. Iowa, for a distance of 43.21 rods and across lands in the NW $\frac{1}{4}$ of said Sec. 15-77-26, for a distance of 75.81 rods and that said defendant Standard Oil Co. of Indiana has no right, title or interest in said land or further than as shown by said description for easement purposes for said pipe-line and as provided by certain contract entered into by and between said Company and Chris Seerup, guardian of Helena Miller, infirm.
 3. That Chris Seerup, as administrator, of said estate of Helena Miller, deceased, and as defendant hereto has no interest in said real estate except in so far as the same may become necessary to be sold to pay the debts of said estate.
 4. Court further finds that service of original notice has been accepted by each and every defendant to this action, including Everal Allie, a minor, and Standard Oil Company of Indiana and that John Hartley their attorney has filed answer for said Company. Court finds said administrator has also accepted service of said notice.
 5. That the ownership and shares of all of the above described real estate is hereby established and confirmed as alleged in said petition as follows:
 - (a) Clara Kammin, Ella Grove and Dora Sinn are each owners of an undivided $\frac{1}{7}$ interest in and to said real estate;
 - (b) Fred Hollingsworth, Raymond Hollingsworth and Neil Pampel are each owners of an undivided $\frac{1}{3}$ of a $\frac{1}{7}$ interest of said real estate;
 - (c) Ella Hubner, Leonard Schlegel and Howard Schlegel are each the owners of an undivided $\frac{1}{3}$ interest of a $\frac{1}{7}$ interest of said real estate;
 - (d) Esther Miller, Arnold Allie, Everal Allie and Orlan Allie are each owners of an undivided $\frac{1}{16}$ of a $\frac{1}{7}$ interest in and to said real estate;
 - (e) Arthur Bockwoldt, Elma Sealing and Rose Winger are each owners of an undivided $\frac{1}{3}$ of a $\frac{1}{7}$ interest in and to said real estate.
 - (f) That Erma Thatcher, Memie Ballard and Clarence Reichbauer are each owners of an undivided one-third of a $\frac{1}{7}$ th interest in and to said real estate;
 6. That said petition alleges Everal Allie was a minor at the time original notice was served upon him, to-wit: July 23, 1941, but that said minor became of age on Sept. 8, 1941, and has since said Sept. 8, 1941, to-wit: on Sept. 9, 1941, re-accepted service of original notice and amended notice and waived time for hearing consented to jurisdiction of court and decree of court appointing said referee, correcting description, etc. and that said guardian ad litem is not necessary since said new acceptances after said Everal Allie reached his majority.
 7. The Court finds that said real estate can not be divided into the requisite number of shares equitable and owners are unable to agree to a division of said real estate and that a referee should be appointed to sell the said real estate and divide the proceeds of said sale of said real estate among the heirs as their interests appear and are above established and confirmed, and finds that all parties have consented to said appointment of referee for said purpose, and further finds that referee should be authorized to sell said real estate at private sale after appraisal or at public auction on notices as provided by law and if sold at private sale, that Fred Lamb, Lyle Gates and Walter Anderson should be appointed appraisers to appraise said real estate.
- Wherefore it is ordered, adjudged and decreed that said ownership of said real estate is confirmed and established in said parties hereto as set forth above in Paragraph #5 and that owners are unable to agree to division of said real estate and that same can not be equitably

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divided into the requisite number of shares and that a referee should be appointed and hereby appoints Chris Seerup referee to sell said real estate at private sale after appraisement or public auction after due notice as provided by law, and after payment of court costs, referee and attorney fees, and other costs which may be assessed by the Court to divide the proceeds from said sale among said heirs as established and confirmed heretofore in this decree.

It is further provided that said referee is authorized to collect rents and profits from said premises and rent the same and shall give bond in the sum of \$2,000.00 and provided further that said referee before selling said real estate or any part thereof shall give surety bond of $1\frac{1}{2}$ times the price of all real estate as same is sold if surety bond or two times sale price of said real estate, or personal bond.

CERTIFICATE OF TRANSCRIPT

Copy

W. S. Cooper Judge

THE STATE OF IOWA, Warren COUNTY, ss.

I, Marlys Walker, Clerk of the District Court in and for said County, do certify that the foregoing is a full, true and correct copy of The Decree in Partition in the Case entitled Clara Kammin, et al VS Rose Wininger, et al, Case NO. 10574. as the same appears of record in my office.

WITNESS my hand and the seal of said Court hereto affixed, at my office in Indianola in said County, on this 24th day of October, 1941.

(DISTRICT COURT SEAL)

COMPARED

Marlys Walker Clerk
By Robert Haldemen Deputy