

Town Lot Deed Record, No. 30

Louis H. Burger

#2668

Filed for record the 18 day of June
A.D. 1942 at 2:15 o'clock P.M.To
Rolla S. Eyerly
Fern Eyerly

Fee \$ 1.50

Pearl E. Shetterly, Recorder

REAL ESTATE CONTRACT

THIS AGREEMENT, made and entered into the 25th. day of February, 1942, by and between Louis H. Burger County of Story State of Iowa, party of the first part, and Rolla S. Eyerly and Fern Eyerly (Husband and wife) of Madison County, State of Iowa, of the second part.

WITNESSETH, that the said party of the first part, in consideration of the covenants and agreements hereinafter contained, agrees to sell unto the party of the second part, the following described real estate, situated in Madison County, State of Iowa, to-wit:

Lots 3, 4, 5. & 6 Block six (6) Laughridge and Cassiday's Addition to the City of Winterset, Madison County, Iowa

for the sum of Fifteen Hundred and no/100 DOLLARS, payable as hereinafter mentioned.

And the said party of the second part, in consideration of the premises, hereby agrees to and with the party of the first part to purchase all his right, title and interest in and to the real estate above described, and to pay therefor to the said Louis H. Burger his heirs or assigns, at the Residence of Louis H. Burger in Story County, Iowa, the sum of Fifteen Hundred and no/100 Dollars, in the manner following, to-wit: One Hundred and no/100 Dollars on the execution of this agreement, and the balance of Fourteen Hundred and no/100 Dollars as follows, to-wit: \$15.00 on the first day of April 1942 and \$15.00 on the first day of each month thereafter untill the full amount with interest at the rate of 5% is fully paid. With the privilege, however, of paying any part or all of said sums at any time before maturity if desired, with interest from date at the rate of five per cent per annum on all such sums as shall remain unpaid, payable semi-annually, on the first day of September and the first day of March in each year till all is paid; but all principal and interest shall draw interest at 7 per cent from its maturity until paid.

And the said party of the first part, on receiving the full sums as above stipulated,

Madison County, Iowa

agrees that he will execute and deliver to the said party of the second part at his own cost and expense a general warranty deed, conveying to said second party the fee simple of said premises, free from all encumbrances to the date of this contract. And to furnish the said second party an abstract of title to said premises showing a merchantable title to the date of this contract.

And it is understood that the stipulations herein are to apply to, and to bind the heirs, executors, administrators and assigns of the respective parties, and all transferees or assigns shall be held to be personally liable for the payment of the above sums of money, and all agreements made herein by said second party, and that the party of the second part is to have possession of the premises March 1st. 1942.

And the said second party hereby obligates himself, his heirs, and assigns, that all improvements placed upon said premises shall remain thereon and not be destroyed until final payment for said premises under this contract, and does agree also to pay all taxes and assessments that may accrue on said property as they become due or before they become delinquent and give receipts to said first party, including the taxes for the year 1942, due and payable in the year 1943.

And it is further agreed by the said second party that they will keep the buildings now erected or hereafter to be erected upon said premises insured for the benefit of the said first party, his successors or assigns, as long as this contract shall remain a lien upon said premises, in the sum of Fifteen Hundred and no/100 DOLLARS, in one or more good solvent companies, to be named by the first party, his successors or assigns, and in case said second party shall fail so to do, said first party shall have the right to cause said property to be insured as above provided and shall recover of said second party, all costs and expenses incurred thereby with 7 per cent interest thereon from the date of payment thereof, and this contract shall be security therefor.

But in case the second party fails to make the payment aforesaid either principal or interest, or any part thereof, as the same becomes due, or fails to pay taxes and assessments or any part thereof, levied upon said property or assessed against him, before they or any of them become delinquent, or fails to keep the property insured as herein stated, or fails to perform any of the agreements herein made or required, strictly and literally, the time and times of all payments and performances herein provided for, being strictly of the essence of this contract, then, in either of said cases, the party of the first part shall have the right at his option, either-

FIRST. To declare this contract null and void, in which case all the rights and interest hereby acquired or existing in favor of said second party, his heirs, representatives or assigns, derived directly or indirectly from or under this contract, shall be forfeited and shall utterly cease and determine, and the property above described shall immediately revert to and revest in said party of the first part as absolutely, fully and perfectly as if the contract had never been made, without any right of said second party for reclamation or compensation for money or property paid or improvements made, but such payments or improvements, if any, shall be taken by said first party as compensation for the use of said property, or as liquidated damages for the breach of this contract; also as per Section of Code of Iowa for 1927, Chapter 527.

SECOND. He may proceed by action at law to collect the full amount of principal then unpaid, due and to become due upon this contract, with interest and attorney's fees as herein provided, and in that event the parties hereto, including all transferees, agree that any justice of the peace may have jurisdiction hereof to the amount of Three Hundred Dollars; or-

THIRD. He may proceed by action in equity to foreclose this contract for the whole amount due and to become due thereon, with interest and attorney's fees as herein provided, in which

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J. H. WELCH PRtg. CO., DES MOINES 7896

event he shall have the right to the immediate possession of the premises above described and to all the rents, issues and profits which may arise therefrom, provided he shall so elect and notice of such election shall be required, or-

FOURTH. He may bring an action for the specific performance of this contract.

It is further expressly agreed that in declaring this option as above provided, no act or re-entry shall be necessary to be performed or made by the party of the first part, except a written demand for the possession of said property, or the bringing of a suit either at law or equity, for the possession of said property, or upon this contract.

This contract is in no event transferable without the consent in writing of first party, and any transfer without the consent of said first party will be void and of no effect.

This contract shall be performed by the party of the second part, his heirs, representatives or assigns at Winterset; and any suit brought by the party of the first part may be brought in Madison County, Iowa. Whenever any action either at law or in equity is brought on this contract by the party of the first part, then the said second party agrees to pay a reasonable attorney's fee to the attorney of the party of the first part, to be taxed as part of the costs of the suit.

Neither the extension of the time of payment by the party of the first part of any sum or sums of money to be paid by the party of the second part, as above provided, nor any waiver by the party of the first part of his rights to declare this contract forfeited by reason of any breach thereof by the party of the second part, shall in any manner affect the right of the party of the first part to declare this contract forfeited because of the failure of the party of the second part to promptly make payments subsequently maturing, or because of this contract subsequently recurring.

And it is further agreed that the party of the first part does by these presents convey unto the party of the second part, the window shade fixtures, screen doors and windows, storm windows, gas and electric lighting fixtures and fittings, water fittings, and bath room fixtures complete as they are at this date attached to the buildings upon the premises herein conveyed.

COMPARED

Louis H Burger
Rolla S. Eyerly

Fern A. Eyerly