

Madison County, Iowa

Phil R. Wilkinson, Gdn

#3915

Filed for record the 10 day of June
A.D. 1939 at 8:30 o'clock A.M.
Pearl E. Shetterly, Recorder

To

Fee \$ 2.40 ✓

R. W. Tyer & wife

REAL ESTATE CONTRACT

THIS AGREEMENT, Made and entered into this 4th day of February A.D., 1939, by and between Phil R. Wilkinson, as Guardian of W. T. Libby of the County of Madison and State of Iowa, party of the first part, and R. W. Tyer and Lilly B. Tyer, husband and wife, of the County of Madison and State of Iowa, party of the second part:

WITNESSETH, That the said party of the first part, upon the performance of the agreements of the party of the second part as hereinafter mentioned agrees to sell to the party of the second part, and the party of the second part, in consideration of the premises, hereby agrees to and with the party of the first part to purchase the following described real estate^{situated} in the County of Madison and State of Iowa, to-wit: Commencing Two (2) rods North of the Southeast corner of Lot Fifteen (15) of County East Out Lot Addition to the City of Winterset, Madison County, Iowa, running thence West 63 feet, thence North 132 feet, thence East 63 feet, thence South 132 feet to the place of beginning; also the West half of Lot 5, Block 2, of Laughridge & Cassiday's Addition, except the East 17 feet thereof; for the sum of Nine Hundred & no/100 DOLLARS (\$900.00), payable as hereinafter stipulated to the party of the first part, his heirs or assigns, at the office of Phil R. Wilkinson Winterset, Iowa, as follows: Fifty & no/100 Dollars (\$50.00) on the execution of this agreement, receipt of which is hereby acknowledged, and the balance of Eight Hundred Fifty (\$850.00) Dollars (\$850.00), and interest thereon as hereinafter provided, as follows, to-wit:

Fifteen & no/100 Dollars (\$15.00) on March 1st, 1939, and Fifteen & No/100 Dollars (\$15.00) on the 1st day of each and every month thereafter until the full amount of the said purchase price^{is paid} with interest on deferred payment at the rate of six per cent. per annum.

Fifteen Dollars (\$15.00), or more, payable on or before the 1st day of each and every month beginning March 1st, 1939 until all of said principal sum and interest on every part thereof at the rate of five per cent per annum from March 1st, 1939, payable monthly, is fully paid; said payments to be applied first in payment of all interest then accrued on the remainder of the said principal sum.

Party of the second part shall be entitled to possession of said premises on March 1st, A.D., 1939, and thereafter so long as he shall perform the obligations of this contract. That they will not alienate or encumber said property in any manner whatsoever without the consent of the said party of the first part. That said second parties will keep all taxes and special ^{assessments} improvement/ paid on said property. This contract is made subject to the approval of the District Court of Madison County, Iowa.

1. The party of the second part hereby agrees that no improvements placed upon said premises shall be removed or destroyed during the life of this contract; and agrees also to pay all taxes and assessments now on or that may later be assessed against said property as they become due or before they become delinquent, including the taxes for the year , due and payable in the year

2. And it is further agreed that the party of the second part shall keep all buildings on and hereafter placed upon said premises constantly insured against loss or damage by fire, lightning and windstorms, for the sum of \$..... and in such insurance companies as may be approved by the party of the first part, for the benefit of the said first party, such insurance policies to be written in the name of the title holder and placed in his keeping; and that said second party shall keep the buildings and other improvements on the said premises in good and reasonable repair; and that said second party shall not make any material alterations in said premises or create a lien thereon without the written consent of the said first

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party, or permit the said premises or any part thereof to be used for any unlawful purpose.

3. In default of the party of the second part paying such taxes and assessments, affecting insurance and making necessary repairs, as herein stipulated, the party of the first part may elect to pay such taxes, effect insurance and make necessary repairs, and all sums so expended, shall be due and payable on demand; or such sums so expended may, at the election of the said first party, be added to the principal amount due hereunder and bear a like rate of interest.

4. But in the event, the party of the second part fails to make the payments aforesaid, either principal or interest or any part thereof, as the same becomes due, or fails to pay the 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 and in reasonable repair as herein stated, or is the cause of any liens or judgments being placed against the property, or fails to perform any of the agreements herein made or required, the time and times of all payments and performances herein provided for being of the essence of this contract, then in any of said events the party of the first part, in addition to any and all remedies or rights of action which he may now have at law or in equity, shall have the right, at his option, and upon serving a thirty days' notice as provided by the Statutes of Iowa, to declare this contract null and void, in which case all the rights and interest hereby acquired or existing in favor of the 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 terminate, and the property above described shall immediately revert to and revest in the said first party as absolutely, fully and perfectly as if this 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; and if the party of the second part, or any other person or persons shall be in the possession of said real estate or any part thereof, he or they will peaceably remove therefrom, or in default thereof he or they may be treated as tenants holding over unlawfully after the expiration of a lease, and may be ousted and removed as such by an action of forcible entry and detainer and it is agreed that the municipal court shall have jurisdiction in said action. In case the party of the second part defaults in making any of the payments herein provided for a period of sixty days after written demand therefor has been made by the party of the first part, the said first party may, without further notice, declare the entire amount of the balance unpaid hereunder, immediately due and payable; and thereafter, at the option of the said first party, a receiver may be appointed to take charge of said premises and collect the rents and profits thereof, to be applied as may be directed by the Court.

5. This contract shall be performed by the party of the second part, his heirs, representatives or assigns, at Iowa, and any suit brought by the party of the first part ~~may be brought by the party of the first part~~ may be brought in 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 said first party, to be taxed as part of the costs of the suit, and further agrees that any Justice of the peace may have jurisdiction hereof to the amount of \$300.

6. It is further agreed that no extension of time of payment or waiver of default in the payment of any installment of principal or interest due under this contract shall affect the right of said party of the first part to require prompt payment of any subsequent installment of principal or interest, or to declare a forfeiture for non-payment thereof.

7. But if all said sums of money, interest and taxes are paid, as aforesaid, promptly at the times aforesaid, and all agreements on the part of the said party of the second part have been complied with, the party of the first part will, on receiving all said money and interest,

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and upon the surrender of the duplicate of this contract, execute and deliver or cause to be executed and delivered, to said second party, his heirs or assigns, a good and sufficient warranty deed, conveying said premises in fee simple, subject, however, to all taxes and assessments, payment of which has been assumed by the said second party, and to all liens and incumbrances imposed on said premises by the said second party or his assigns, which deed shall contain the same building restrictions, if any, contained in this contract or now of record, and the said first party will then also furnish said second party with an abstract of title beginning with the Government patent, showing a good and merchantable title to said premises in grantor. The cost of all entries shown on said abstract of transactions of date ^{subsequent to date} hereof, which are not occasioned by the said first party, shall be added to the balance due hereunder.

8. It is understood that second party has examined the abstract of title to said property at this time and has approved said abstract to the date of this contract.

9. It is further understood and agreed by the party of the second part, and this sale is made upon the express condition that the vendor, his heirs, legal representatives or assigns, may, and hereby reserves the right to, at any time, mortgage said premises, to any loan company for any amount not exceeding 50% of the purchase price provided said loan shall not exceed the then unpaid part of the purchase price herein provided. Any such mortgage is hereby expressly consented to and authorized by the party of the second part, who further agrees to sign all necessary papers in the execution of said mortgage, which he agrees shall be a lien upon said premises paramount and superior to any rights in said property acquired by the purchaser by virtue of this contract; provided however that interest on said mortgage shall not exceed ...%.

10. When a first mortgage loan on said premises shall be negotiated by either party hereto with any loan company, for the amount due hereunder, the party of the second part agrees to execute and deliver such mortgage, and the party of the first part upon receipt of such sum agrees to execute and deliver deed to the said second party; or when the second party shall have reduced the amount due hereunder to the amount of any existing mortgage on said premises and accrued interest, if any, said second party shall assume said mortgage and receive deed to said premises subject thereto; or the said first party may reduce or pay off such mortgage. First party shall pay all interest and payments becoming due on any incumbrance on said premises during the life of this contract, and should the said first party fail to pay the interest or payments on any incumbrance on said premises the said second party may pay such interest or payments and shall receive credit hereon for the amount so paid.

11. The party of the first part covenants and agrees that he will collect no money hereunder beyond the amount of the value of his equity in said real estate; and if said first party shall hereafter collect or receive any moneys hereunder beyond the amount of value of his said equity he shall be considered and held as collecting and receiving said money as the agent and trustee of the party of the second part and for his use and benefit.

12. It is further agreed that the stipulations herein shall apply to and bind the heirs, ^{executors} administrators and assigns of the respective parties, and all assignees shall be held personally liable for the payment of the above sums of money and for the performance of all the agreements herein contained. In case of the assignment of this contract by either party, prompt notice shall be given to the other party.

Executed in

duplicate

triplicate

Phil R. Wilkinson as
Guardian of W. T. Libby

R. W. Tyer
Lillie B. Tyer

Attached to this contract between Phil R. Wilkinson, as Guardian of W. T. Libby, and R. W. Tyer and Lilly B. Tyer, husband and wife, are the following stipulations which are to be considered as part thereof, and appended thereto.

That the Parties of the Second Part shall keep the buildings on said premises well insured in some good, reputable insurance company, in favor of the First Party.

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It is further understood and agreed that when the Second Parties have paid to First Party the sum of \$600.00 on the said premises that they have the right and privilege to float a loan, and pay off the balance of said purchase price, and when the balance of said purchase price is paid to the First Party, the said First Party will then execute and deliver to the said Second Parties a good and sufficient Guardian's Deed for said premises, and deliver to them an abstract of title showing merchantable title.

It is further understood and agreed that time is the essence and important part of this contract, and upon default of any of the terms and conditions of this contract by Second Parties, First Party is to have the right to declare the same forfeited under the laws of the State of Iowa as provided in the printed part of this contract.

This contract is made subject to the right of the easement of Iowa Power and Light Company across the premises.

STATE OF IOWA, County of Madison)ss.

On this 4th day of February, A.D. 1939 before me, Dorothy D. Longenecker, a Notary Public in and for the County of Madison, State of Iowa, personally appeared Phil R. Wilkinson, Guardian and R. W. Tyler and Lillie B. Tyler, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

NOTARIAL
SEAL

Dorothy D. Longenecker
Notary Public in and for Madison County, State of Iowa.