

IN THE CHANCERY COURT OF COUNTY, MISSISSIPPI

PETITIONER(S)

VS.

NO.

RESPONDENT(S)

PETITION FOR PARTITION IN KIND

TO THE HONORABLE CHANCELLOR OF THE CHANCERY COURT OF THE COUNTY OF , IN THE STATE OF MISSISSIPPI:

1. COMES NOW the petitioner(s), , who is an/are adult resident citizen(s) of the County of , , and respectfully show unto the court that your petitioner(s), together with the respondent(s), , are the owners in fee simple as tenants in common in equal parts of the following described real property situated in County, Mississippi, to-wit:

PARCEL :

PARCEL :

AND ALSO a right of way and easement for ingress and egress and all utility lines with the right to use the same in common with others over, through and across the following described parcels of land, to wit:

PARCEL :

PARCEL :

A plat of said land is attached hereto as Exhibit " " and made a part hereof as if copied in full in words and figures, said plat has divided the property into equal parts.

2. As a non-resident of the State of Mississippi and respondent, , as an adult resident citizen may be served with process at , , Mississippi.

3. Petitioner(s) and respondent(s) are the sole owners of an undivided interest in said real property in equal shares. Said property has passed by operation of law to the heirs at law of , who passed away on , at the time of his/her interstate death was the sole owner of the aforesaid property.

4. As far as petitioner(s) is/are concerned, there are no liens or encumbrances upon said property and no other persons other than petitioner(s) and respondent(s) are interested in said premises as owner or otherwise.

Petitioner(s), , have executed a power of attorney in favor of to transact any and all business concerning the partitioning in kind of the aforesaid property. Copies of the

powers of attorney are attached hereto as Exhibit " " and made a part hereof as if copied in words and figures.

Petitioner(s) have tried to partite said property by voluntary agreement among all of the owners but said negotiations have reached an impasse. Therefore, petitioner(s) who is/are tenant(s) in common of the aforementioned property request that said property be partitioned in kind.

6. A special commissioner herein appointed shall appraise said real property at its full market value and shall offer it in its entirety to the several parties hereto. In the event any of the parties shall elect to take said property as herein provided, he/she shall pay therefore the full-appraised value; less the proportionate value of his/her proper share therein which sum shall be paid at the time of confirmation of the conveyance to him/her by the court.

7. In the event partition in kind cannot be made and in case no party shall elect to take the real property as herein above provided then the property shall be sold in its entirety by the special commissioner for the highest and best price obtainable.

8. On behalf of the other co-tenants of the real property described herein, petitioner, , employed an attorney who has performed services and will continue to perform services for the common benefit of all the parties hereto in the partition in kind of said real property herein sought. The fees of said attorney for such services and his/her necessary costs and disbursements are a proper charge against the interest of all the co-tenants in said real property in accordance with their respective shares therein and should be charged as cost of this action and adjudged to be a lien against the respective interests of the parties hereto until paid to the attorney or reimbursed to petitioner, , who was acting on behalf of the petitioners in an attempt to voluntarily partite said property, has necessarily

The \$ costs and expenses so paid by should be allowed as a credit to and should be charged as costs of this action and adjudged to be a lien against the respective interest of the parties hereto until reimbursed to .

WHEREFORE, PREMISES CONSIDERED, petitioners pray:

1. That this matter be set for a final hearing and that process will issue in accordance with the law and that on a final hearing the court will order and decree a partition in kind of said premises in accordance with the statutes on this case;

2. If partition in kind cannot be had without material injury to the rights of the parties, then in the alternative, for a sale of said property with first option to purchase by any or all co-tenants and if no co-tenants desire to buy then to the public and to divide said proceeds of sale among the parties according to their several rights.

3. That all necessary and incidental expenses be reimbursed to and that all attorney fees paid by be reimbursed to him/her.

Petitioners pray for general relief and as in duty bound will ever pray.

Respectfully submitted this the day of , 20 .

Attorney in fact

Of Counsel:

Telephone:
MSB #
Attorney for

STATE OF MISSISSIPPI
COUNTY OF

THIS day personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, _____, attorney-in-fact for the above mentioned petitioners, who having been by me first duly sworn, states on his/her oath that all of the matters and things stated in the above and foregoing Petition for Partition in Kind are true and correct as therein stated.

SWORN TO AND SUBSCRIBED before me, this, the _____ day of _____, 20____ .

NOTARY PUBLIC

My Commission Expires:

JOINDER

_____ of _____, _____, attorney-in-fact for the above mentioned petitioners, hereby joins in said petition individually and as attorney in fact for the petitioners and prays for the relief sought herein and adopts the averments in said petition.

SWORN TO AND SUBSCRIBED before me, this, the _____ day of _____, 20____ .

NOTARY PUBLIC

My Commission Expires: