

IN CIRCUIT COURT, NINTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR
ORANGE COUNTY. IN CHANCERY

No. 23174

CLARENCE A. CODDINGTON, HERBERT HALVERSTADT,
JOSEPH W. HOOKE, MARSHALL W. BOOR, RANDALL
CHASE, HUGH POWEL and LAURA SCOTT KIRTON, as
Successor Trustees of the Public Charitable
Trust and Property and Assets of the Robert
Hungerford Industrial School of Eatonville,
Orange County, Florida,

Plaintiffs,

vs.

RICHARD W. ERVIN, as Attorney General of the
State of Florida, et als.,

Defendants.

FINAL DECREE

This cause came on to be further heard, and was argued by
counsel; and thereupon, upon consideration thereof,

IT WAS ORDERED, ADJUDGED AND DECREED AS FOLLOWS, VIZ:

1. That this Court has jurisdiction of the subject matter
and of the parties.

2. That the Attorney General of the State of Florida was
properly made a party defendant herein to represent the general pub-
lic, including the beneficial interests under the public charitable
trust, with regard to the existence of a general charitable intent
warranting the use of cy pres, and with relation to the questions
whether there has been a failure of the charity as originally
planned and what substituted scheme would be the best, and also with
regard to any and all other questions involved herein.

3. That successors in interest to various original
grantors of the real estate to the trust are proper parties defendant
to determine whether there has been such a failure of the trust as
originally planned as to be grounds for any resulting trust and so
that any decree entered herein may be binding on them with regard to
the real estate herein involved.

4. That there are more than five hundred donors who have from time to time given to Robert Hungerford Industrial School and whose donations have made possible the improvements now on the real estate belonging to the trust and whose donations have also contributed to the acquisition of the tangible personal property of the trust; that the defendants George H. Opdyke, W. M. Wells, Frank A. Assmann, Ambrose Vernon, Dickson-Ives Company and The Davella-Mills Foundation are representative donors and are proper parties to be made defendants to defend for the whole class of which they are representative members.

5. That The Board of Public Instruction of Orange County, Florida, is properly made a party defendant as the body to whom plaintiffs have proposed to transfer the real and personal property of the trust (with the exceptions indicated in the bill of complaint) if approved by the Court.

6. That it is impracticable and inexpedient to operate further a private boarding school on the premises described in paragraph VI of the bill of complaint and that the carrying out of the basic object and purpose and dominant thought and idea of the trust under which the properties of Robert Hungerford Industrial School are held and administered would be best served and most nearly accomplished by conveying outright to the public school system of Orange County, Florida, the real and tangible personal property of the school, reserving therefrom the Chapel and the furnishings thereof, together with the right of ingress thereto and egress therefrom, the decree directing the conveyance to contain the provision which is hereinafter contained with regard to the use to be made of said real and personal property.

7. That the settlor's original charitable intent was general and broad and not narrow and particular; and the fact that it is no longer practical or expedient to conduct a private boarding school on the premises referred to in the bill of complaint is not such a failure of the charity as originally planned as to require for any resulting trust.

8. That the report and accounting of the plaintiffs herein as Successor Trustees of the Public Charitable Trust and Property and Assets of the Robert Hungerford Industrial School of Eatonville, Orange County, Florida, filed pursuant to the decree of this Court, dated April 11, 1951, are hereby approved.

9. That the sum of \$16,571.56 is hereby determined to be the amount to be paid by The Board of Public Instruction of Orange County, Florida, in connection with the transfer to it of the real and personal property to be transferred to it, said amount being in addition to the May 1, 1951, installment of rent due on the lease to said Board by the plaintiffs entered into pursuant to order of this Court dated May 1st, 1950, it being contemplated that all insurance policies held by plaintiffs on improvements on the real estate transferred as well as all insurance policies held on the personal property transferred shall also be transferred to said Board of Public Instruction and that said Board shall be released from the June 1, 1951, installment of rent on said lease.

10. That upon receipt by plaintiffs of said sum of \$16,571.56 and of said May 1, 1951, installment of rent in the amount of \$416.67, plaintiffs Clarence A. Coddington, Herbert Halverstadt, Joseph W. Hooke, Marshall W. Boor, Randall Chase, Hugh Powell and Laura Scott Kirton, as Successor Trustees of the Public Charitable Trust and Property and Assets of the Robert Hungerford Industrial School of Eatonville, Orange County, Florida, are hereby authorized and directed to transfer and convey to The Board of Public Instruction of Orange County, Florida, a public corporation under the laws of the State of Florida, all that certain personal property listed on schedule 1 attached to the aforesaid lease entered into pursuant to said order of May 1, 1950, and all other tangible personal property of said trust except the furnishings of the Stewart Memorial Chapel, and are further authorized and directed to transfer and convey to said Board the following real estate situate, lying and being in Orange County, Florida, to-wit:

The SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, the W $\frac{1}{2}$ of the SE $\frac{1}{4}$, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, all in Section 35, Township 21 South, Range 29 East, the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 22 South, Range 29 East, and the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34, Township 21 South, Range 29 East, with the exceptions and reservations hereinafter set out.

11. That upon the conveyance of said real and personal property to The Board of Public Instruction of Orange County, Florida, said real property shall be used as a site for the operation of a public school thereon for negroes with emphasis on the vocational education of negroes and to be known as "Robert Hungerford Industrial School" and the personal property so conveyed to said Board shall be used in connection therewith.

12. That the conveyance aforesaid to said Board of Public Instruction shall contain the following provision: "There is reserved and excepted from the real estate conveyed by this deed the following described real estate situate, lying and being in Orange County, Florida, to-wit: From a point 159 feet west of the northeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, Township 21 South, Range 29 East, run south 40° 41' east 352.3 feet, thence south 82° 29' west 377.9 feet, thence south 40° 33' east 20.03 feet to point of beginning, thence south 40° 33' east 66.9 feet, thence north 85° 27' east 75 feet to center of intersection of south and east walls of Chapel, thence north 40° 33' west 70.77 feet, thence south 82° 29' west to point of beginning; and there is likewise reserved the furnishings in the Stewart Memorial Chapel on the real property reserved; and there is also reserved to the grantors herein and their successors in trust the right of ingress and egress to and from the Stewart Memorial Chapel on said premises over and across the following described premises situate in Orange County, Florida, to-wit: A strip of land 20 feet wide on each side of the following described line: Begin at a point 159 feet west of the northeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, Township 21 South, Range 29 East, run south 40° 41' east 352.3 feet,

thence south 82° 29' west 377.9 feet; said right of ingress and egress to include all persons who shall use said Stewart Memorial Chapel with the consent of the grantors herein or their successors in trust."

13. That at the time of the transfer of said real and personal property to said Board of Public Instruction of Orange County, Florida, plaintiffs shall transfer to said Board all insurance policies held by plaintiffs or improvements on the real estate transferred as well as all insurance policies held on the personal property transferred and shall at the same time release said Board from the June 1, 1951, installment of rent on the aforesaid lease.

14. That this Court hereby reserves and shall retain jurisdiction in this cause over all of the funds, property and assets of the Public Charitable Trust of Robert Hungerford Industrial School of Eatonville, Orange County, Florida, not herein ordered transferred to said Board of Public Instruction.

DONE AND ORDERED at Orlando, Florida, this 9th day of May, A. D. 1951.

W. C. Smith
Circuit Judge

FILED IN THE OFFICE OF THE CLERK OF THE COURT
ORANGE COUNTY, FLORIDA
MAY 9 1951
140 215-219

