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

CIVIL DIVISION.

CASE NO. 73-5501

THE SCHOOL BOARD OF ORANGE COUNTY,
FLORIDA, a body corporate existing
under the laws of the State of
Florida,

Plaintiff,

vs.

HERNDON G. HARRISON, JAMES COLLIER,
PAUL PERKINS, REVEREND EDORAS PAGE,
MAX STARKS, DR. JAMES R. SMITH,
REVEREND NATHANIEL G. STAGGERS, and
PROFESSOR C. W. BOSTON, as Successor
Trustees of the Public Charitable
Trust and Property and Assets of
the ROBERT HUNGERFORD CHAPEL TRUST
(formerly the Robert Hungerford
Industrial School of Eatonville,
Orange County, Florida),

Defendants.

FINAL JUDGMENT

THIS ACTION WAS TRIED BEFORE THE COURT.

On the evidence presented, the Court hereby finds as
follows:

1. The Plaintiff, THE SCHOOL BOARD OF ORANGE COUNTY,
FLORIDA, is a body corporate existing under the provisions of
Section 230.21, Florida Statutes, and Plaintiff was formerly
known as THE BOARD OF PUBLIC INSTRUCTION OF ORANGE COUNTY, FLORIDA.

2. Plaintiff was a Defendant in Chancery Case No. 23174
which was heretofore brought in this Court.

3. HERNDON G. HARRISON, JAMES COLLIER, PAUL PERKINS, REVEREND
EDORAS PAGE, MAX STARKS, DR. JAMES R. SMITH, REVEREND NATHANIEL
G. STAGGERS, and PROFESSOR C. W. BOSTON are the Successor Trustees
of the Public Charitable Trust and Property and Assets of the
ROBERT HUNGERFORD CHAPEL TRUST, which said Trust was formerly and
also known as the Robert Hungerford Industrial School of Eatonville.

Orange County, Florida. Said persons were so appointed as Successor Trustees by Order entered by this Court on July 11, 1960, in Chancery Case No. 23174, then pending in this Court.

4. The Plaintiff is the owner in fee simple of the following described real property situated in Orange County, Florida, to-wit:

The SE 1/4 of the SE 1/4, the W 1/2 of the SE 1/4, the E 1/2 of the SW 1/4 and the NW 1/4 of the SW 1/4, all in Section 35, Township 21 South, Range 29 East, the NW 1/4 of the NE 1/4 of Section 2, Township 22 South, Range 29 East, and the E 1/2 of the SE 1/4 of the NE 1/4 of Section 34, Township 21 South, Range 29 East, LESS that portion thereof described as follows:

From a point 159 feet West of the Northeast corner of the NW 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East, run South 4 degrees 41 minutes East 352.3 feet, thence South 82 degrees 29 minutes West 377.9 feet, thence South 4 degrees 33 minutes East 20.03 feet to point of beginning, thence South 4 degrees 33 minutes East 66.9 feet, thence North 85 degrees 27 minutes East 75 feet to center of intersection of South and East walls of Chapel, thence North 4 degrees 33 minutes West 70.77 feet, thence South 82 degrees 29 minutes West to point of beginning.

SUBJECT to rights-of-way for State Roads S-438-A and 400 (I-4) and Wymore Road.

The Plaintiff acquired the fee simple title to said property under and by virtue of that certain Trustees' Deed dated May 11, 1951, recorded in Deed Book 867, page 247, Public Records of Orange County, Florida.

5. The aforesaid Trustees' Deed was executed and delivered by the Grantors therein, the then Successor Trustees of the Public Charitable Trust and Property and Assets of the ROBERT HUNGERFORD INDUSTRIAL SCHOOL OF EATONVILLE, ORANGE COUNTY, FLORIDA, to Plaintiff, pursuant to authority and direction contained in a Final Decree entered by this Court on May 2, 1951, in Chancery Case No. 23174.

6. The aforesaid Final Decree entered by this Court on May 2, 1951, imposed the following restriction upon the aforesaid real

property owned by the Plaintiff, to-wit:

"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."

7. Prior to the execution and delivery of the aforesaid Trustees' Deed, the aforesaid real property was owned in fee simple by the then Successor Trustees of the Public Charitable Trust and Property and Assets of the Robert Hungerford Industrial School of Eatonville, Orange County, Florida. Said Successor Trustees, by virtue of the aforesaid Trustees' Deed, conveyed the aforesaid real property out of said Public Charitable Trust, and since the time of the execution and delivery of said Trustees' Deed, the Plaintiff has continuously been the owner of said real property, and said Public Charitable Trust has had no title thereto or interest therein since the time of the execution and delivery of said Trustees' Deed, excepting only the Defendants herein do have an Easement of record over a portion of said real property to provide ingress and egress to the real property housing a Chapel owned by the Defendants.

8. The Plaintiff has at all times since the execution and delivery of the aforesaid Trustees' Deed used said real property as a site for the operation of a public school thereon, and has at all times abided by the aforesaid restriction contained in this Court's Final Decree entered on May 9, 1951.

9. The Plaintiff paid to the Successor Trustees of the Public Charitable Trust and Property and Assets of Robert Hungerford School of Eatonville, Orange County, Florida, the monetary sums mentioned in Paragraph 10 of this Court's aforesaid Final Decree entered on May 9, 1951, and Plaintiff did all things required of it by and under said Final Decree. The payment of said sums by

Plaintiff represented consideration for the conveyance of the aforesaid real property to Plaintiff by the aforesaid Successor Trustees under the aforesaid Trustees' Deed.

10. Since the time of the execution and delivery of the aforesaid Trustees' Deed, the character of said real property has been changed by the construction of a road, Interstate 4, through and across said property. Said Road has divided said property.

11. The Plaintiff has received various inquiries relating to the sale and/or leasing of said real property or portions thereof. If Plaintiff were permitted to lease and/or sell said real property or portions thereof, the same would provide additional income or revenues to Plaintiff which could be used by Plaintiff generally for the betterment of Plaintiff's public school system and for the advancement of public education in Orange County, Florida, all of which would and does constitute a public purpose.

12. The following described portions of said real property are not needed or unsuited for use as a site for a public school or schools, to-wit:

The NW 1/4 of the NE 1/4 of Section 2, Township 22 South, Range 29 East; the E 1/2 of the SE 1/4 of the NE 1/4 of Section 34, Township 21 South, Range 29 East; the NW 1/4 of the SW 1/4, and the E 1/2 of the SW 1/4, of Section 35, Township 21 South, Range 29 East; all that part of the W 1/2 of the SE 1/4 of Section 35, Township 21 South, Range 29 East lying West of Wymore Road; the SW 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East, LESS the North 300 feet thereof; and the SE 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East, LESS the North 300 feet of the West 300 feet thereof.

13. The following described portions of the real property owned by the Plaintiff, upon which are located presently existing schools, shall be and remain subject to and bound by the aforesaid restriction, to-wit:

The NW 1/4 of the SE 1/4, and the North 300 feet of the SW 1/4 of the SE 1/4 of Section 35,

Township 21 South, Range 29 East; and the North 300 feet of the West 300 feet of the SE 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East.

Based upon the evidence presented and upon the aforesaid findings made by this Court,

IT IS ADJUDGED THAT:

(a) This Court has jurisdiction of the parties and the subject matter of this action.

(b) Plaintiff is entitled to have declared null, void, cancelled and dissolved the restriction contained in Paragraph 11 of this Court's Final Decree entered on May 9, 1951, in Chancery Case No. 23174, as it pertains to and affects the following described real property owned by Plaintiff and situated in Orange County, Florida, to-wit:

The NW 1/4 of the NE 1/4 of Section 2, Township 22 South, Range 29 East; the E 1/2 of the SE 1/4 of the NE 1/4 of Section 34, Township 21 South, Range 29 East; the NW 1/4 of the SW 1/4, and the E 1/2 of the SW 1/4, of Section 35, Township 21 South, Range 29 East; all that part of the W 1/2 of the SE 1/4 of Section 35, Township 21 South, Range 29 East lying West of Wymore Road; the SW 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East, LESS the North 300 feet thereof; and the SE 1/4 of the SE 1/4 of Section 35, Township 21 South, Range 29 East, LESS the North 300 feet of the West 300 feet thereof,

because it would be inequitable for the Court to further require that said real property be further bound by or subject to said restriction; and the aforesaid real property be and it is hereby released and discharged from the operation and effect of the following restriction contained in Paragraph 11 of this Court's Final Decree entered on May 9, 1951, in Chancery Case No. 23174, to-wit:

"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."

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(c) Said restriction, as set forth and contained in Paragraph 11 of this Court's Final Decree entered on May 9, 1951 in Chancery Case No. 23174, be and the same is hereby cancelled and dissolved, and declared hereby to be null and void and of no further force or effect, insofar as the same pertains to or affects Plaintiff's real property hereinabove released from the operation and effect of said restriction.

(d) Plaintiff, its successors and assigns, shall hereafter at all times have the right to utilize the aforesaid real property, hereinabove released from the operation and effect of said restriction, free and discharged of the said restriction imposed by this Court in its aforesaid Final Decree entered on May 9, 1951.

DONE and ORDERED in Chambers at Orlando, Orange County, Florida, this 17 day of January, A. D. 1974.



Judge


Copies furnished to:

James Collier, 305 South Parramore St., Orlando, Florida, 32801, Attorney for Defendants

Paul C. Perkins, 647 West South Street, Orlando, Florida, 32801, Attorney for Defendants

William M. Rowland, Jr. of Rowland and Petruska, 33 East Robinson St., Orlando, Florida 32802, Attorneys for Plaintiff.

RECORDED & INDEXED VERIFIED


County Comptroller, Orange Co., Fla.