

DOUGLAS COUNTY, NEBRASKA.

120

May Term, A. D. 1921, Monday, June 13th, A. D. 1921.

awarded absolutely all the personal property situated at 2228 Emmett Street, Omaha, Nebraska, being the furniture of the former home of said parties comprising all furniture, rugs, linens, silverware, dishes, cut glass, painted china, doilies, draperies, pictures and each and every other article, utensil, and fixture used by said parties in their home as aforesaid.

This decree is effective six months from this day.

By the Court;

Arthur C. Wakeley, Judge.

Adolf L. Meyer, Nelson B. Updike, Maria A. Johnson, Luisa C. Hamilton, and Charles W. Hamilton and Frederick P. Hamilton as trustees under the will of Frank T. Hamilton, deceased, Plaintiffs.

vs

The City of Omaha, The Union Pacific Railroad Company, The Union Pacific Railway Company, Union Pacific Railroad Company, Bankers Trust Company of New York, Trustee, formerly The Mercantile Trust Company of New York, The Rogers Real estate Company, Marthena Saunders, Charles L. Saunders and Mary S. Harrison, devisees under the last will and testament of Alvin Saunders, deceased; William L. Gilmore, Myrtle Gustin, and Coral Carroll, sole heirs at law of Joseph C. Gilmore, deceased; Frances Cleveland Preston, individually and as devisee under the last will and testament of John B. Folsom, deceased, and also as devisee and trustee under the last will and testament of Emma Folsom Perrine, deceased, she being the same person named as devisee under said last will and testament of said John B. Folsom, deceased, under the name of Emma C. Folsom; Esther Cleveland, Marian Cleveland, Richard F. Cleveland and Francis Grover Cleveland, devisees under the said last will and testament of said Emma Folsom Perrine, deceased; Emma A. Folsom, Alice Folsom Bullock, and William R. Folsom, devisees under the said will of said John B. Folsom, deceased, and also devisees under the last will and testament of Alice R. Folsom, deceased; Mary Augusta Martin, devisee under said will of said John B. Folsom, deceased, the unknown heirs, devisees, legatees and personal representatives of James C. Mitchell, deceased, and all other persons interested in the estate of said James C. Mitchell, deceased; the unknown heirs, devisees, legatees and personal representatives of Calvin H. Frederick, deceased, and all other persons interested in the estate of said Calvin H. Frederick, deceased, Reuben Sheldon; Reuben Sheldon, Junior; the unknown heirs, devisees, legatees and personal representatives of Jane Sheldon, deceased, and all other persons interested in the estate of said Jane Sheldon, deceased; P.G. Peterson; William H. Pierce; John C. Hileman; Mary A. Colby; Solon Bartlett; William Tanner; Charles H. Downs; Henry Z. Curtis; Henry W. Starr; V.G. Lantry; Edward P. Child; Isaac Coe; Thomas Chester; David Shepperd; Bird B. Chapman; C. G. Camp; A. Rosenberry and Mary L. Gilmore, and James M. Love, John M. McCune and Henry J. Campbell, formerly co-partners doing business under the firm name and style of James M. Love & Company, and the unknown heirs, devisees, legatees and personal representatives of said Reuben Sheldon, Reuben Sheldon, Junior, P.G. Peterson, William H. Pierce, John C. Hileman, Mary A. Colby, Solon Bartlett, William Tanner, Charles H. Downs, Henry Z. Curtis, Henry W. Starr, V.G. Lantry, Edward P. Child, Isaac Coe, James M. Love, John M. McCune, Henry J. Campbell, Thomas Chester, David Shepperd, Bird B. Chapman, C.G. Camp, A. Rosenberry and Mary L. Gilmore, and all other persons interested in their estates or in the estate of either one of them; also the following described lands situated in Douglas County, Nebraska, to-wit: That part of Government Lot 4 in Section 23, in Township 15, North of Range 13, East of the Sixth Principal Meridian, and Lots 1 and 2 in Block 244 in the City of Omaha comprised and lying within the following described boundaries: Commencing at a point 315 feet south and 313 feet east of the southwest corner of said government Lot 4, as the place of beginning, thence north 133.15 feet, thence east 5 feet, thence north 128 feet, thence in an easterly direction along the south line of the Union Pacific right of way 146.5 feet, thence south 276.8 feet, thence 151.4 feet in a northwesterly direction, making an angle of 84 degrees and 8 minutes with the above described eastern boundary, to the place of beginning; also that part of said Government Lot 4 comprised and lying within the following boundaries: Commencing at the northeast corner of Lot 3 in Block 243 of the original plat of the City of Omaha, as surveyed and lithographed, as the point of beginning, thence northerly 259.6 feet to the south line of the Union Pacific Railroad right of way, thence easterly along the south line of said right of way 197.6 feet, and thence easterly along the section line between Sections 23 and 25 in the Township and Range aforesaid 194.7 feet to the

179-100

DECREE

place of beginning; also lots 3, 4, 5, and 6 in Block 243 in said City of Omaha and the 20-foot alley between said Lots 3 and 4 and Lots 5 and 6; also the following parcel of ground adjoining said Lots 5 and 6 in said Block 243 on the south: Commencing at the southwest corner of said Lot 5 and running thence west 20 feet, thence south 10.8 feet, thence northerly 17 feet to the southeast corner of said Lot 6, and thence westerly 132 feet along the south line of said Block 243, to the place of beginning; also a parcel of ground adjoining said lots 4 and 5 in said block 243 on the west, bounded and described as follows: Commencing at the southwest corner of said Lot 5, and running thence west 20 feet, thence northerly 132 feet parallel with the west line of said Lot 5, thence west 25 feet along the south line of the alley between Blocks 243 and 244 in said City of Omaha, thence north 16 feet, thence west 24 feet, thence northerly 63.8 feet, thence east 6.3 feet, thence north 16.8 feet to the Section line between said Sections 23 and 26, thence easterly along said Section line 62.7 feet to the northwest corner of said Lot 4, and thence southerly 229 feet along the west line of said Block 243 to the place of beginning; also an undivided one-half interest in and to a parcel of ground now occupied by a railroad switch track owned by the Chicago, Burlington and Quincy Railroad Company, said parcel of ground being bounded and described as follows: Beginning at a point 313 feet east of the southwest corner of said Government Lot 4 in said Section 23, and running thence west 6.3 feet, thence south 1355 feet, thence 151 feet more or less in a southeasterly direction to a point 31 feet east of the east line of Lot 1 in said Block 244 and 29 feet more or less south of the Section line between said Sections 23 and 26, thence north 10.4 feet, thence 145 feet more or less in a northwesterly direction to a point 3.15 feet south of the point of beginning, and thence north 3.15 feet to the point of beginning; also commencing at the northwest corner of Lot 2 in Block 243 in said City of Omaha, and running thence east along the section line between Sections 23 and 26, afore said, 346 feet, more or less, to the west line of the right of way of the Chicago Burlington & Quincy Railroad, thence northwesterly along the west line of said right of way 268 feet, more or less, to the intersection of the south line of the Union Pacific Railroad right of way, thence westerly along said south line of said Union Pacific Railroad right of way 288.9 feet, thence southerly 259.6 feet to the place of beginning; also Lots 1, 2, 7 and 8 in said Block 243, and all that parcel of ground between said lots designated as an alley; also all that parcel of ground lying north of Pierce Street and south of the said Section line and between Blocks 242 and 243 in said City of Omaha, designated as Third street; also Lots 4 and 5 and all that part of Lots 3, 6 and 7 lying west of the said west right of way line of the Chicago Burlington and Quincy Railroad, in said Block 242, also all that parcel of ground lying between said lots in said Block 242 and west of said west right of way line of the Chicago, Burlington and Quincy Railroad, and designated as an alley; also all that parcel of ground designated as Pierce Street and bounded and described as follows: Commencing at the Southwest corner of Lot 7 in said Block 243 and thence South 17 feet, thence easterly along a board fence now standing as erected more than thirty years ago, 298 feet to a point 25 feet south of the southwest corner of Lot 6 in said Block 242, thence northeasterly 23 feet, more or less, to a point 15 feet south and 21 feet east of the southwest corner of said Lot 6 in said Block 242, thence east 58 feet, more or less, parallel with the south line of said Block 242, to the intersection of said board fence with said west line of the Chicago, Burlington & Quincy Railroad right of way, thence northerly 15 feet more or less, along said west line of said right of way, to the south line of said Block 242 and thence westerly 376 feet, more or less, along the south line of said Blocks 242 and 243, to the place of beginning; also that parcel of ground bounded and described as follows: Commencing at a point in the west line of said right of way of the Chicago, Burlington and Quincy Railroad 45 feet north of the north line of Block 269, in said City of Omaha, as surveyed and platted, thence west parallel with the north line of said Block 269 to a point 45 feet north and 20 feet west of the northwest corner of Lot 4 in said Block 269, thence south parallel with the west line of said Block 269 to a point 20 feet west and 15 feet south of the southwest corner of Lot 5 in said Block 269, thence east parallel with the south line of said Block 269 to the west line of the said right of way of said Chicago, Burlington & Quincy Railroad and thence northwesterly along said west line of said right of way to the place of beginning, and all persons claiming any interest of any kind in said real estate or any part thereof.

Defendants.

This cause came on to be heard on the 13th day of June, 1921, on the motion of the plaintiffs for default against all of the defendants herein except The City of Omaha, Union Pacific Railroad Company and Bankers' Trust Company, Trustee, and

was submitted to the Court, on consideration whereof it appearing to the Court that due service has been had on all of the defendants herein either in person or by publication of notice, and that none of the defendants herein except said The City of Omaha, Union Pacific Railroad Company and Bankers' Trust Company, Trustee, have answered, demurred or otherwise appeared herein and are in default, it is ordered by the Court that said motion be and the same is hereby sustained and that default be and the same is hereby entered against each of the defendants herein except the City of Omaha, Union Pacific Railroad Company and Bankers' Trust Company, trustee.

This cause coming on further to be heard on the motion of the plaintiffs to strike the testimony herein respecting the testimony given by Peter E. Iler on the trial in the action of Standard Distilling & Distributing Company vs. Fred Albrecht, et al., and was submitted to the Court on consideration whereof it is ordered by the Court that said motion be and the same is hereby sustained, and that said testimony be and the same is hereby stricken.

This cause coming on further to be heard on the petition of the plaintiffs, the answers of the defendants The City of Omaha and Bankers' Trust Company, Trustee, and the amended answer of the defendant Union Pacific Railroad Company and the replies to said several answers, and the evidence, and was submitted to the Court, on consideration whereof the Court finds on the issues joined, in favor of the plaintiffs as to all the real estate described in the petition herein, except that part thereof bounded and described as follows, to-wit:

Beginning at a point 196 feet north of the northwest corner of Lot 2, Block 243, of the original City of Omaha, as surveyed and lithographed, thence east 309 feet more or less to the west line of the right of way of the Chicago, Burlington & Quincy Railroad, thence northwesterly along the west line of said right of way 71 feet, more or less, thence westerly 288.9 feet, more or less, thence south 63.6 feet to the point of beginning;

and that the plaintiffs are entitled to the relief prayed for with respect to said real estate so found to be owned by them.

The Court further finds on the issues joined, in favor of said defendants Union Pacific Railroad Company and the Bankers' Trust Company, Trustee, as to the real estate last above particularly described and excepted from the real estate described in the petition in the findings in favor of said plaintiffs, and the Court further finds that said defendants Union Pacific Railroad Company and Bankers' Trust Company, Trustee, are entitled to the relief prayed for by them with respect to said real estate on which the Court finds in their favor.

It is therefore considered, adjudged and decreed by the Court that said defendant Union Pacific Railroad Company be, and it is hereby adjudged to be the owner in fee of that part of said real estate described in the petition herein as follows, to-wit:

Beginning at a point 196 feet north of the northwest corner of Lot 2, in Block 243, in the original plat of the City of Omaha, as surveyed and lithographed thence east 309 feet, more or less, to the west line of the right of way of the Chicago Burlington & Quincy Railroad, thence northwesterly along the west line of said right of way 71 feet, more or less, thence westerly 288.9 feet, more or less thence south 63.6 feet to the point of beginning;

and that title of the said Union Pacific Railroad Company thereto is hereby quieted in it and that said defendant Bankers' Trust Company, Trustee, is hereby adjudged to have a first lien thereon under and by virtue of the Trust Deed set forth in its answer herein, and the plaintiffs herein are forever barred and enjoined from having or claiming any interest of any kind or nature in or to any part thereof adverse to said defendants

Union Pacific Railroad Company and Bankers' Trust Company.

It is further considered, adjudged and decreed by the Court that the plaintiffs herein are and they are hereby adjudged to be the owners in fee of all the real property described in the petition herein as follow, to-wit:

That part of Government Lot 4 in Section 23, in Township 15, North of Range 13, East of the Sixth Principal Meridian, and Lots 1 and 2 in Block 244 in the City of Omaha, comprised and lying within the following described boundaries; Commencing at a point 3.15 feet south and 313 feet east of the south west corner of said Government Lot 4, as the place of beginning, thence north 133.15 feet, thence east 5 feet, thence north 128 feet, thence in an easterly direction along the south line of the Union Pacific right of way 145.5 feet, thence south 276.8 feet, thence 151.4 feet in a north-westerly direction, making an angle of 84 degrees and 8 minutes with the above described eastern boundary, to the place of beginning; also that part of said Government Lot 4 comprised and lying within the following boundaries: Commencing at the northeast corner of Lot 3 in Block 243 of the original plat of the City of Omaha, as surveyed and lithographed, as the point of beginning, thence northerly 259.6 feet, to the south line of the Union Pacific Railroad right of way, thence westerly along the south line of said right of way 197.6 feet, thence southerly 258 feet and thence easterly along the section line between Sections 23 and 26 in the Township and Range aforesaid 194.7 feet to the place of beginning; also Lots 3, 4, 5 and 6 in Block 243 in said City of Omaha and the 20-foot alley between said Lots 3 and 4 and Lots 5 and 6; also the following parcel of ground adjoining said Lots 5 and 6; in said Block 243 on the south: Commencing at the southwest corner of said Lot 5 and running thence west 20 feet, thence south 13.2 feet, thence easterly along the board fence as now standing 152.1 feet, thence northerly 17 feet to the southeast corner of said Lot 6 and thence westerly 132 feet along the south line of said Block 243, to the place of beginning; also a parcel of ground adjoining said lots 4 and 5 in said Block 243 on the west, bounded and described as follows: Commencing at the southwest corner of said Lot 5 and running thence west 20 feet, thence northerly 132 feet parallel with the west line of said Lot 5, thence west 25 feet along the south line of the alley between Blocks 243 and 244 in said City of Omaha, thence north 16 feet thence west 24 feet, thence northerly 63.8 feet, thence east 6.3 feet, thence north 16.8 feet to the Section line between said Sections 23 and 26, thence easterly along said Section line 62.7 feet to the northwest corner of said Lot 4 and thence southerly 229 feet along the west line of said Block 243 to the place of beginning; also an undivided one-half interest in and to a parcel of ground now occupied by a railroad switch track owned by the Chicago, Burlington and Quincy Railroad Company, said parcel of ground being bounded and described as follows: Beginning at a point 313 feet east of the southwest corner of said Government Lot 4 in said Section 23, and running thence west 6.3 feet thence south 135.5 feet, thence 151 feet more or less in a southeasterly direction to a point 31 feet east of the east line of Lot 1 in said Block 244 and 29 feet more or less south of the Section line between said Sections 23 and 26, thence north 10.4 feet, thence 145 feet more or less in a northwesterly direction to a point 3.15 feet south of the point of beginning and thence north 3.15 feet to the point of beginning; also commencing at the northwest corner of Lot 2, in Block 243 in said City of Omaha, and running thence east along the section line between Sections 23 and 26 aforesaid, 346 feet more or less

May Term, A. D. 1921, Monday, June 13th, A. D. 1921.

to the west line of the right of way of the Chicago, Burlington and Quincy Railroad, thence northwesterly along the west line of said right of way 197 feet more or less to the intersection of the south line of Union Pacific Railroad right of way 309 feet, thence southerly 196 feet to the place of beginning; also Lots 1, 2, 7 and 8 in said Block 243, and all that parcel of ground between said lots designated as an alley; also all that parcel of ground lying north of Pierce Street and south of the said Section line and between Blocks 242 and 243 in said City of Omaha, designated as Third Street; also Lots 4 and 5 and all that part of Lots 3, 6 and 7, lying west of said west right of way line of the Chicago, Burlington and Quincy Railroad, in said Block 242, also all that parcel of ground lying between said lots in said Block 242 and west of said west right of way line of the Chicago, Burlington and Quincy Railroad, and designated as an alley; also all that parcel of ground designated as Pierce Street and bounded and described as follows: Commencing at the southwest corner of Lot 7 in said Block 243 and thence south 17 feet, thence easterly along a board fence now standing as erected more than thirty years ago, 298 feet to a point 25 feet south of the southwest corner of Lot 6 in said Block 242, thence northeasterly 23 feet, more or less, to a point 15 feet south and 21 feet east of the southwest corner of said Lot 6 in said Block 242, thence east 58 feet, more or less, parallel with the south line of said Block 242, to the intersection of said Board fence with said west line of the Chicago, Burlington and Quincy Railroad right of way, thence northerly 15 feet, more or less, along said west line of said right of way, to the south line of said Block 242 and thence westerly 376 feet, more or less, along the south line of said Blocks 242 and 243, to the place of beginning; also that parcel of ground bounded and described as follows: Commencing at a point in the west line of said right of way of the Chicago, Burlington and Quincy Railroad 45 feet north of the north line of Block 269, in said City of Omaha, as surveyed and platted, thence west parallel with the north line of said Block 269 to a point 45 feet north and 20 feet west of the northwest corner of Lot 4 in said Block 269, thence south parallel with the west line of said Block 269 to a point 20 feet west and 15 feet south of the southwest corner of Lot 5 in said Block 269, thence east parallel with the south line of said Block 269 to the west line of the said right of way of said Chicago, Burlington and Quincy Railroad and thence northwesterly along said west line of said right of way to the place of beginning;

and that the plaintiffs Adolf L. Meyer and Nelson B. Updike are each the owners in fee of an undivided one-third interest in all of said real estate; that the plaintiff Maria A. Johnson is the owner in fee of an undivided one-sixth interest in all of said real estate; that the plaintiff Luisa C. Hamilton is the owner in fee of an undivided one-twelfth interest in all of said real estate and that the plaintiffs Charles W. Hamilton and Frederick P. Hamilton as trustees under the will of Frank T. Hamilton, deceased, are the owners in fee of an undivided one-twelfth interest in all of said real estate, that the title of the plaintiffs in and to said real estate owned by them as above set forth, be and the same is hereby forever quieted in them; that the defendants herein have no right, title or interest in said real estate or any part thereof and that said defendants and each of them be and they are hereby forever barred and enjoined from

DISTRICT COURT JOURNAL, NO. 190

115

May Term, A. D. 1921, Monday, June 13th, A. D. 1921.

having or claiming any right, title or interest in or to said real estate adjudged to be owned by said plaintiffs as aforesaid, or any part thereof, adverse to the said plaintiffs.

BY THE COURT,

Arthur C. Wakeley,

Judge.

Elizabeth Urak, Plaintiff and Appellee,
vs.
Morris & Company, a corporation,
Defendant and Appellant.

175-163

ORDER

Now, on this 10th day of June, 1921, this matter coming on for hearing on the motion of the defendant to set aside the judgment heretofore entered in said cause, and it appearing to the Court that said judgment should be set aside and vacated, thereupon after trial to the Court and argument of counsel the Court finds that said decree is correct and same is hereby reentered and reinstated.

By the Court,

Arthur C. Wakeley,

Judge.

Elizabeth Urak, Plaintiff and Appellee,
vs.
Morris & Company, a corporation,
Defendant and Appellant.

175-163

JUDGMENT

The judgment heretofore rendered herein and entered of record April 11th, 1921, having been vacated and set aside, and this Court, upon further hearing of said cause on this, the 10th day of June, 1921, having entered an order that said judgment as heretofore rendered be re-entered and re-instated;

WHEREFORE, it is considered, ordered and adjudged by the Court that the appeal of Morris & Company, a corporation, the defendant and appellant, be and it is hereby fully sustained; and it is further ordered, adjudged and decreed by the Court that plaintiff's action be and it is hereby dismissed, and that the defendant, Morris & Company go hence without day and have and recover its costs from the plaintiff taxed at \$_____.

To all of the foregoing, Elizabeth Urak, the plaintiff and appellee, is duly allowed her exceptions.

By the Court,

Arthur C. Wakeley,

Judge.

Jefferson L. Farris, Plaintiff,
vs.
Eileen Shadwick Farris, Defendant.

179-280.

DECREE.

On this 25th day of May, 1921, this cause came on for hearing upon the petition of the plaintiff and the cross petition of the defendant and the reply of