Miscellaneous Record, No. 21, Madison County. Iowa.

J. H. Spencer
to
The Public

#2610
Fee $ .80

Filed for record the 12 day of November A. D. 1930 at 10:20 o'clock A. M.
Mildred E. Knott, Recorder.

AFFIDAVIT.

State of Iowa,
Madison County, -SS.

I, J. H. Spencer, a resident of said county and state, being first duly sworn, upon my oath depose and say as follows:

That I am the same person as the J. H. Spencer, one of the grantees in a certain warranty deed from W. C. Gunn and wife, dated Feb. 10, 1908, recorded Mar. 11, 1908, at page 486 of Deed Record 48, of Madison County, Iowa, records, which deed, as shown by said record, conveyed the SW¼ of Section 15, in Township 76 North, of Range 29 West of the 5th P. M., except the store building site in the Southwest corner thereof.

That when affiant and wife, I. Spencer (his co-grantee), contracted to purchase said 160-acre tract, it was with the express understanding that affiant and his co-grantee were purchasing and would acquire title from the said W. C. Gunn to the whole of said 160-acre tract subject only to a certain lease then in force for a store building site in the Southwest corner thereof 6½ rods East and West by 6½ rods North and South, and that it was not the intention or purpose of the said W. C. Gunn, grantor, to reserve to himself the title to said store building site, nor was it the intention or purpose of said grantees to accept a deed from him which would except from said 160-acre tract said store building site. That the full consideration under said grantees' contract for the purchase of the whole of said 160-acre tract was paid to the said W. C. Gunn in fulfillment of said contract, and said grantees (affiant and I. Spencer), at the time of the delivery to them of said deed, understood that full title to the whole of said 160-acre tract was conveyed to them thereby, subject only to said lease.

That in the description of the land conveyed in said deed, the word "except" was entirely erroneous and was, in fact, the result of an error either on the part of the scrivenor who drew said deed or of the Recorder when recording the same. That affiant has searched diligently for said recorded deed, but that the same has, in the lapse of time since its recording, become lost and he is unable to find it.

That the said W. C. Gunn was, at the time affiant and his co-grantee contracted for the purchase of said land through the agency of E. E. McCall, a real estate and loan broker doing business in Winterset, Iowa, a resident of the State of Kansas, and that affiant never met him and does not now know his whereabouts, but that never since the date of said deed has he, the said W. C. Gunn, or any person or persons claiming by, through or under him, made, asserted, or attempted to make or assert any claim of right, title or interest in or to any part of said 160-acre tract or the said store building site in the Southwest corner thereof; and that at all times since the date of said deed, and under the same, said grantees have exercised full and absolute control of said site and paid all taxes levied and assessed against it, until they sold it in 1928.

State of Iowa } ss.
Madison County }

I hereby certify that the annexed affidavit was filed for record the 12 day of Nov. 1930 at 10:20 o'clock A. M. and is a true and correct copy of the original affidavit mentioned therein. Dated Nov 12 1930

Mildred E. Knott Recorder

That said store building site had never been assessed for land taxes separate or apart from said 160-acre tract, since the date of said deed, but had always been included therewith; and that all levies for taxes have been made and assessed against the same as the property of this affiant and I. Spencer, its true owners, prior to their selling it.

That the possession, ownership and control by the grantees in said deed, under and by virtue thereof, of the whole of said 160-acre tract, has, ever since its date, been adverse, absolute, notorious, unquestioned, uninterrupted, continuous and undisputed; and said grantees, notwithstanding the erroneous and misleading use of the word "except" in said description, became and were the full and absolute owners of said store building site, subject only to the record lease thereof.

J. H. Spencer

Subscribed in my presence and sworn to before me by J. H. Spencer, affiant, this 7th day of November, A. D. 1930.

NOTARIAL SEAL

Will H. Henry

Notary Public in and for Madison County.