Compared

IND ✓
SEC ✓
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Fee $25.00

5 pgs.

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BOOK 118 PAGE 757

1985 JUN 12 PM 2:18

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

ASSIGNMENT OF REAL ESTATE CONTRACT AS COLLATERAL FOR BANK LOAN

In consideration for any loan or loans which may be made by FARMERS & MERCHANTS STATE BANK of Winterset, Iowa, hereinafter referred to as the "Bank", to Margaret Thrailkill and John F. Thrailkill, husband and wife, hereinafter referred to as "Assignors", and to secure and to provide for the payment of any and all such loans, and any and all notes which may be issued to evidence any such loan or loans, the Assignors hereby assign, transfer and set over to the Bank, all of their right, title and interest in a certain real estate contract between Wilbur Moore and Wilma Moore, husband and wife, and Margaret Thrailkill and John F. Thrailkill, husband and wife, as Sellers, and Pine View Angus Farms, Inc. and Marilyn Saucke Varley, as Buyers, together with all sums due and to become due thereon. See copy of said contract attached hereto.
the Buyers under said real estate contract, will hereafter be referred to as "Buyers".

1. Payment on Contract. It is understood that Buyers will make all payments due on the said real estate contract with Assignors to the Bank at its office in Winterset, Iowa. The Bank, in its discretion, may take any action or proceedings, either in its own name or in the names of the Assignors, or otherwise, which the Bank may deem necessary or advisable under the circumstances. It is expressly understood and agreed, however, that the Bank shall not be required or obliged in any manner to make any demand, or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present, or to file any claims, or to take any action to collect or enforce the payment of any amount or amounts which may be or become due or payable under the above-described real estate contract.

2. Application of Monies Received by Assignee. The Assignors agree that any and all monies received by the Bank from either the Buyers, the Assignors, or anyone else, by virtue of this Assignment, may be applied by the Bank toward the payment of any and all loans and any and all obligations that the Assignors have to the Bank. Application of amounts as between principal and interest and as between particular obligations is to be in the absolute discretion of the Bank. Any residue of such payments which remains after the payment in full of all such obligations, indebtednesses, and liabilities of the Assignors to the Bank shall be paid by the Bank to the Assignors.

FOR RELEASE OF Assignment SEE Deed RECORD 120 PAGE 462

3. Further Assurances. The Assignors further agree that they will, at any time, upon the request of the Bank, execute and deliver such further documents and do such other acts and things as the Bank may specify for the purpose of further assurances, or effecting the purposes of this assignment, and otherwise do any and all things and acts which the Bank may request in order to perfect this assignment.

4. Warranties. The Assignors hereby warrant that they are legally competent to make this assignment, that they have not transferred, or assigned, or encumbered the said real estate contract or any rights or interests therein, or any monies due or to become due or payable thereunder, and that no proceedings in bankruptcy or insolvency or otherwise at law and equity, which would affect their rights under the said real estate contract, are pending against them.

5. Benefits. The covenants and warranties that the Assignors set forth herein shall inure to the benefit not only of the Bank but of its successors and assigns.

6. Remedies. The rights and remedies of the Bank hereunder are cumulative and are not in lieu of but are in addition to any other rights and remedies which the Bank may have under the provisions of any promissory note or agreement, or otherwise.

DATED this 4 day of September, 1984

Margaret Thrailkill
Margaret Thrailkill

John Thrailkill
John R. Thrailkill

STATE OF IOWA :
: ss
MADISON COUNTY :

On this 4 day of September, 1984, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Margaret Thrailkill and John F. Thrailkill, husband and wife, to me personally known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

MARY ANN PEER
Iowa

Mary Ann Peer
Mary Ann Peer
Notary Public in and for the State of Iowa

IOWA STATE BAR ASSOCIATION
Official Form No. 21.2 (Trade-Mark Registered, State of Iowa, 1967)

FOR THE LEGAL EFFECT OF THE USE OF THIS FORM, CONSULT YOUR LAWYER

File in her Folder

REAL ESTATE CONTRACT (SHORT FORM)

It Is Agreed between Wilbur Moore and Wilma Moore, husband and wife, and Margaret Thrailkill and John E. Thrailkill, wife and husband,

of Madisoon County, Iowa, **Sellers,** and, Pine View Angus Farms, Inc. and Marilyn Saucke Varley

of Adair County, Iowa, **Buyers:**

That Sellers hereby agree to sell and Buyers hereby agree to buy the real estate situated in Madison County, Iowa, described as:

The Northwest Quarter (NW¼) and the West Half (W½) of the Northeast Quarter (NE¼) of Section Thirty-five (35), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa

together with all easements and servient estates appurtenant thereto, upon the following terms:

1. **TOTAL PURCHASE PRICE** for said property is the sum of Four Hundred and Eighty Thousand and no/100 ---------- Dollars ($480,000.00) of which Twenty Thousand and no/100 ---------- Dollars ($20,000.00) has been paid herewith, receipt of which is hereby acknowledged by Sellers; and Buyers agree to pay the balance to Sellers at residence of Sellers, or as directed by Sellers, as follows:

Eighty Thousand Dollars ($80,000) on or before March 1, 1980;
Forty Thousand Dollars ($40,000) or more on March 1, 1981; and
Forty Thousand Dollars ($40,000) or more on the first day of March each year thereafter until March 1, 1991, when the entire unpaid balance shall become due and payable. Payments after March 1, 1980, shall be applied first toward payment of interest, as hereinafter provided, and the balance shall be credited toward payment of principal.

2. **INTEREST.** Buyers agree to pay interest from March 1, 1980 upon the unpaid balances, at the rate of 8½ per cent per annum, payable annually. Interest payments are included in the $40,000-annual payments as hereinbefore provided.

3. **TAXES.** Sellers agree to pay all taxes assessed against said premises payable during the fiscal year commencing March 1, 1979, and any unpaid taxes thereon payable in prior years and any and all special assessments for improvements which have been installed at the date of this contract; and Buyers agree to pay, before they become delinquent, all other current and subsequent taxes and assessments against said premises. **Any proration of taxes shall be based upon the taxes for the year currently payable unless the parties state otherwise.***

4. **POSSESSION.** Sellers agree to give Buyers possession of said premises on or before March 1, 1980.

5. **INSURANCE.** Sellers agree to carry existing insurance until date of possession and Buyers agree to accept the insurance recovery instead of replacing or repairing buildings or improvements. Thereafter until final settlement, Buyers agree to keep the improvements upon said premises insured against loss by fire, tornado and extended coverage for a sum not less than $ ---- or the balance owing under this contract, whichever is less, with insurance payable to Sellers and Buyers as their interests may appear, and to deliver policies therefor to Sellers.

6. **ABSTRACT.** Sellers agree to forthwith deliver to Buyers for their examination abstract of title to said premises continued to the date of this contract showing merchantable title in accordance with Iowa Title Standards. After examination by Buyers the abstract shall be held by Sellers until delivery of deed. Sellers agree to pay for an additional abstracting which may be required by acts, omissions, death or incompetency of Sellers, or either of them, occurring before delivery of deed.

7. **FIXTURES.** All light fixtures, electric service cable and apparatus, shades, rods, blinds, venetian blinds, awnings, storm and screen doors and windows, attached linoleum, attached carpeting, water heater, water softener, outside TV tower and antenna, attached fencing and gates, pump jacks, trees, shrubs and flowers and any other attached fixtures are a part of the real estate and are included in this sale except

*Decide for yourself if that formula is fair if Buyers are purchasing a lot with newly built improvements.

8. **CARE OF PROPERTY.** Buyers shall not injure, destroy or remove the improvements or fixtures or make any material alterations thereof without the written consent of Sellers, until final payment is made.

9. **DEED.** Upon payment of all sums owing by Buyers to Sellers by virtue of this contract, Sellers agree to contemporaneously execute and deliver to Buyers a warranty deed upon the form approved by The Iowa State Bar Association and which shall be subject to:

(a) Liens and encumbrances suffered or permitted by Buyers, and taxes and assessments payable by Buyers.

(b) Applicable zoning regulations and easements of record for public utilities and established roads and highways.

(c)

10. **FORFEITURE AND FORECLOSURE.** If Buyers fail to perform this agreement in any respect, time being made the essence of this agreement, then Sellers may forfeit this contract as provided by Chapter 656 of the Iowa Code and all payments made and improvements made on said premises shall be forfeited; or Sellers may declare the full balance owing due and payable and proceed by suit at law or in equity to foreclose this contract, in which event Buyers agree to pay costs and attorney fees and any other expense incurred by Sellers. It is agreed that the periods of redemption after sale on foreclosure may be reduced under the conditions set forth in Sections 628.26 and 628.27, Code of Iowa.

11. **PERSONAL PROPERTY.** If this contract includes personalty, then Buyer grants Seller a security interest in such personalty. In the case of Buyer's default, Seller may, at his option, proceed in respect to such personalty in accordance with the Uniform Commercial Code of Iowa and treat such personalty in the same manner as real estate, all as permitted by Section 554.9501(4), Code of Iowa.

12. **JOINT TENANCY IN PROCEEDS AND IN SECURITY RIGHT IN REAL ESTATE.** If, and only if, the Sellers, immediately preceding this sale, hold the title to the above described property in joint tenancy, this sale shall not constitute a destruction of that joint tenancy. In that case, all rights of the Sellers in this contract, in the proceeds thereof, and in any continuing or recaptured rights of Sellers in said real estate, shall be and continue in Sellers as joint tenants with full rights of survivorship and not as tenants in common. Buyers, in the event of the death of one of such joint tenants, agree to pay any balance of the proceeds of this contract to the surviving Seller and to accept deed executed solely by such survivor; but with due regard for the last sentence of paragraph 6, above.

13. **"SELLERS."** Spouse, if not a titleholder immediately preceding this sale, shall be presumed to have executed this instrument only for the purpose of relinquishing all rights of dower, homestead and distributive share and/or in compliance with section 561.13 Code of Iowa; and the use of the word "Sellers" in the printed portion of this contract, without more, shall not rebut such presumption, nor in any way enlarge or extend the previous interest of such spouse in said property, or in the sale proceeds, nor bind such spouse except as aforesaid, to the terms and provisions of this contract.

14. (Here add further terms or provisions) SEE ADDITIONAL PROVISIONS ON ATTACHED SHEET.

Words and phrases herein shall be construed as singular or plural and as masculine, feminine or neuter gender according to the context

Dated this 1st day of March 19 80

PINE VIEW ANGUS FARMS, INC.

By _____
President

_____
Marilyn Saucke Varley **BUYERS**

Stuart, Iowa
Buyers' Address

_____
Wilbur Moore

_____
Wilma Moore, Winterset, Io **SELLERS**

_____
Margaret Thrailkill

_____
John T. Thrailkill **Sellers' Address**
Earlham, Iowa

STATE OF IOWA, MADISON COUNTY, ss:

On this 31 day of March, A. D. 19 80, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Wilbur Moore and Wilma Moore and Margaret Thrailkill and John T. Thrailkill

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed

_____
Shirley A. Webster, Notary Public in and for said County and State.

Real Estate Contract (Short Form)

TO

Entered for taxation the _____ day of _____ 19__
_____ Auditor
By _____ Deputy

Filed for record the _____ day of _____ 19__
_____ o'clock __M., and recorded in Book __ on page __
_____ County Records.
_____ Recorder
By _____ Deputy

WHEN RECORDED RETURN TO

ADDITIONAL PROVISIONS TO MOORE-THRAILKILL AND VARLEY, ET AL
REAL ESTATE CONTRACT

14. Buyers may sell off acreage, including residence on premises. Cost of surveying and title to be paid by buyers. Sellers agree to convey acreage to buyers upon receipt of three-fourths (3/4) of the net proceeds from the sale of said acreage, said payment to be credited on the last installment due under the terms of this contract.

15. Buyers may remove trees and buildings on premises and may fill wells on premises.

16. Buyers may pay off entire balance on this contract at any time after January 1, 1981.