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FILED NO 1735
BOOK 33 PAGE 29

Compared

1980 APR 14 PM 2:36

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

Fee $ 2 7 00

AFFIDAVIT

STATE OF IOWA)
) SS.
LINN COUNTY)

I, W. R. Shuttleworth, being first duly sworn on oath depose and state that I am and for many years past have been an attorney and in that capacity am and have become familiar with the title and possession of the following described real estate situated in Madison County, Iowa, to-wit:

> An undivided one-half interest in and to the following:
>
> South One-half (S 1/2) of the Southwest Quarter (SW 1/4) which lies south of the right-of-way of the CRI & P Ry. Company of Section Three (3), and all that part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) lying south of said railway right-of-way of Section Four (4), and the West One-half (W 1/2) of the Southeast Quarter (SE 1/4) except railway of said section Four and the East One-half (E 1/2) of the Southwest Quarter (SW 1/4) except railway of said Section Four and all that part of the Northwest Quarter (NW 1/4) of Section Nine lying east of the quarry spur of the said railway as the same runs through said quarter section. All said land being in Township 77 North of Range 28, West of the 5th P.M., Madison County, Iowa.

and know that Martin Marietta Corporation is the titleholder in possession of said premises and is the same corporate entity whose name is partially misspelled as "Marrietta" in Deeds recorded at Deed Record 109, Page 247, and Deed Record 109, Page 250, respectively.

That I have reviewed a transcript from the Polk County, Iowa Clerk of Court of certain materials in the matter of the estate of Margart Robertson in Probate No. 21185 in said Court, said decedent being a party involved in the chain of title to the above premises, and have also reviewed proceedings from said estate as abstracted in an abstract prepared by Peoples Abstract Company of Des Moines, Polk County, Iowa; that various documents in the transcript gives the decedent's name as

Margart Robertson but I am satisfied this is a scrivener's error as the Affidavit of Death in that proceeding gives the decedent's name as "Margaret" Robertson and the decedent's Will as offered for probate, although typed "Last Will of Margart Robertson" was signed by the purported testator as "Margaret" Robertson as clearly appears from the record thereof, said instrument being dated November 16, 1922; that the aforesaid transcript contained Objections to the probate of the purported November 16, 1922 Will which further state the same was revoked by a subsequent Will and that the subsequent Will was in turn revoked by the decedent and alleging that the decedent died intestate; that the transcript does not contain any Order resolving the Objections and allegations one way or the other but does reflect that a general administrator was appointed and that the Final Report in decedent's estate was filed by the administrator thereof indicating intestacy; that the Clerk's office in Polk County has advised that portion of the original file dealing with the issues raised cannot be located but the intestacy of said decedent is substantiated by an abstract entry as above referred to, copy of which in full is marked Exhibit "1", attached hereto, and made a part hereof, all of which confirms the intestacy of the said Margaret Robertson, also known as Margart Robertson.

That I have reviewed certain documents relative to the estate of Samuel A. Robertson, also a party involved in the chain of title to the above premises who became deceased in Polk County, Iowa, on December 9, 1913, and whose estate proceedings were administered upon in that county as No. 8505-Probate; that from the records I have examined it is apparent the said Samuel A. Robertson died intestate and in support thereof I have marked and attached as Exhibit "2" hereto an instrument of

"Objections to Probating of Purported Will" in said probate proceeding and an Order Refusing Probate entered the 3rd day of October, A.D. 1914, the same being photostatic copies of the originals as filed; that said items were furnished by Peoples Abstract Company who further advised the undersigned that a transcript thereof could not be obtained for filing in Madison County because the original file is missing from the Polk County Clerk's office and had not been microfilmed.

That this Affidavit is executed as one explanatory of title pursuant to Section 558.8, Code of Iowa, and pursuant to Section 614.17, Code of Iowa, as applicable.

Signed this 13 day of March, 1980.

W. R. Shuttleworth

Subscribed and sworn to before me this 13 day March, 1980.

Notary Public in and for the State of Iowa

ANNE MEYER
MY COMMISSION EXPIRES
September 30, 1982

POWER OF ATTORNEY

The undersigned, owner in possession of said property as above stated, hereby directs that this Affidavit be filed of record and hereby appoints the County Recorder of the County wherein said land is situated as the authorized attorney in fact to file same.

MARTIN MARIETTA CORPORATION

By Charles H. Fleischer

Charles H. Fleischer
Real Estate Manager
MARTIN MARIETTA AGGREGATES
Central Division

STATE OF IOWA)
) SS.
COUNTY OF LINN)

On this 9th day of ~~March~~ April, 1980, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Charles H. Fleischer, to me known, who, being by me duly sworn, did say that he is the Real Estate Manager of Martin Marietta Aggregates, Central Division of said corporation by authority of its Board of Directors; and that the said Charles H. Fleischer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

Roberta Cummings

Notary Public in and for said County and State

(Roberta Cummings)

NOTARIAL SEAL ROBERTA CUMMINS

MARGINAL ENTRY

STATE OF IOWA)
) SS.
COUNTY OF MADISON)

The undersigned Recorder in and for said County in the State aforesaid, hereby certifies that the foregoing Affidavit was filed in the said Recorder's Office by the owner in possession as named in said Affidavit or by his attorney in fact as shown by the records; and duly recorded and entered on the records thereon on the 14 day of APRIL, 1980.

Mary E. Welty

Recorder.

No. 15.

In the Matter of Estate of Margart Robertson, deceased.

Probate 69, No. 21185
June 15, 1933 a purported Will of deceased was filed herein, set for probate, and notice published as by law required.

June 24, 1933 Edith Campbell sister of deceased, et al filed objections to probate of will stating that said will was expressly revoked by a subsequent Will and that said subsequent Will was revoked by the deceased Margart Robertson by destroying the same with intent to revoke the same; and that the said Margart Robertson died intestate.

Said contest was by order of court on July 11, 1933 transferred to law docket and assigned for trial.

Trial was had to a jury and verdict returned for contestants February 7, 1934 it was ordered, adjudged and decreed that the Will proposed for probate dated November 6, 1922 was not the last Will and Testament of Margart Robertson, deceased, and that the subsequent Will dated August 4, 1930 was revoked by Margart Robertson in her lifetime; that neither Will be admitted to probate; and that Margart Robertson died intestate.

POLK COUNTY.

IN THE DISTRICT COURT OF THE STATE OF IOWA
IN AND FOR POLK COUNTY.

In the Matter of the Estate -of- Samuel A. Robertson, Deceased.	No. 8505-Probate. OBJECTIONS TO PROBATING OF PURPORTED WILL.

Come now Edith Robertson Campbell and Emma Robertson Rodgers and respectfully show to the court that Samuel A. Robertson, a resident of Polk County and State of Iowa, became deceased in said county and state on the 9th day of December, 1913, leaving a widow and certain heirs-at-law, among which heirs-at-law are your contestants and objectors.

That there has been filed in the office of the Clerk of this Court on the 12th day of December, 1913, an instrument in writing purporting to be the last will and testament of the deceased, Samuel A. Robertson, which instrument has been opened and read by said clerk and said clerk has fixed the 12th day of January, 1914, at 9:00 o'clock A. M., as the time for the probating thereof.

Said Edith Robertson Campbell and Emma Robertson Rodgers, for themselves and such other interested parties as may hereafter join with them, hereby object to and contest the probating of said will and for grounds therefor state:

1. That said Samuel A. Robertson, deceased, was not, at the time of the pretended execution of said written instrument purporting to be his last will and testament, of sound and disposing mind, and was, at said time, of insufficient mind and memory and incapacitated to make a valid will.

Bowen & Robertson
Attorneys for Edith Robertson Campbell and Emma Robertson Rodgers, Contestants.

EXHIBIT 2

ORDER REFUSING PROBATE.

Samuel A. Robertson, late of
Polk County, State of Iowa,
Deceased.

BE IT REMEMBERED that on this 3rd day of October, A. D. 1914, this matter came on for hearing before the Court and it appearing to the Court that a written instrument consisting of ten (10) typewritten pages and signed by Samuel A. Robertson, as his Last Will and Testament and also signed by Lewis Schooler, H. M. Pickell and J. C. Hume at Des Moines, as witnesses thereto, has been duly opened and read by the Clerk of this Court, as required by law and that due notice has been given of the time and place of hearing as the law directs, and that objections or a contest to the probating of said will has been heretofore filed, the proponent of the Last Will and contestants appearing by their respective attorneys, and the Court after hearing the evidence produced and being fully advised finds that said paper so purporting to be the Last Will and Testament of the said Samuel A. Robertson, though duly signed by him and witnessed in the manner provided by law and executed in due form of law is not the Last Will of the said Samuel A. Robertson, and that the said Samuel A. Robertson was not at the time of the execution thereof competent to make a will.

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the foregoing described instrument purporting to be the Last Will and Testament of Samuel A. Robertson, deceased, and bearing date

not to be the Last Will and Testament of the said Samuel A. Robertson and the probate thereof is hereby refused by the Court.

THEREUPON and after and on the same day this matter came on for hearing before the Court upon the probating of a certain other written instrument consisting of nine (9) typewritten pages, dated the 9th day of February, 1905, and witnessed by Harriet M. Kendall and James C. Hume, purporting to be the Last Will and Testament of the said Samuel A. Robertson, and the two codicils thereto, one consisting of nine (9) typewritten pages and one of two (2) typewritten pages, both dated the 6th day of May, 1911, and both witnessed by Charles W. Lyon and Alta P. Churdan, all of said instruments being signed by the said Samuel A. Robertson, and it appearing to the Court that said instruments had been duly filed with the Clerk of this Court, opened and read, as by law required, and that due notice of the time and place of hearing had been given, as the law directs, and it being admitted by all the parties hereto that said instruments were in due form of law and were signed by the said Samuel A. Robertson and by witnesses in the manner and form required by law for the due execution of wills, and thereupon, the Court heard the testimony of witnesses produced in Court, and after hearin said evidence and being fully advised, finds that the said Samuel A. Robertson, at the time of the execution of said instrument, purporti to be the Last Will and Testament of the said Samuel A. Robertson, and dated February 9, 1905, and at the time of the execution of the said instruments purporting to be the codicils to the Last Will of the said Samuel A. Robertson, dated May 6, 1911, was not competent to execute a will and that the said instruments are not the Last Will and Testament of the said Samuel A. Robertson, or the codicils thereto.

In the Matter of the Estate
of
Samuel A. Robertson, deceased.

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the said instruments purporting to be the Last Will and Testament of the said Samuel A. Robertson, consisting of nine (9) typewritten pages and dated February 9, 1905, and the said instruments purporting to be the codicils to the Last Will and Testament of the said Samuel A. Robertson, dated the 6th day of May, 1911, be and they are hereby declared not to be the Last Will and Testament and codicils to the Last Will and Testament of the said Samuel A. Robertson and the probate thereof and of each of them are hereby refused by the Court.

AND IT IS FURTHER ADJUDGED that the said Samuel A. Robertson died intestate.

JUDGE.