

BOOK 775 PAGE 83

# REAL ESTATE CONTRACT

Registered ☒  
Indexed, Air ☒  
Indirect ☒  
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Mailed ☒

Price and Payment Terms

1. The purchase price is One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00), of which \$22,500.00 has been paid, the receipt whereof is hereby acknowledged.

2. The balance of said purchase price, being One Hundred Twenty-Seven Thousand, Five Hundred and No/100 Dollars (\$127,500.00), shall be paid as follows:

a. Fifteen Thousand and No/100 Dollars (\$15,000.00), or more at purchaser's option, on or before July 20, 1990, and \$15,000 or more at purchaser's option, on or before the 20th day of July of each succeeding year thereafter until the balance of said purchase price shall have been fully paid. The amount of the final payment shall be the total of the principal and interest remaining unpaid at the time said final payment is tendered by purchaser.

b. The purchaser further agrees to pay interest on the diminishing balance of said purchase price at the rate of ten per cent (10%) per annum from the date of closing. Accrued interest shall be deducted from each annual installment payment, and the balance of each payment shall be applied in reduction of principal.

3. Upon purchaser's request, and further upon the terms and conditions set forth in this Paragraph 3, seller shall deliver to purchaser partial warranty fulfillment deeds conveying seller's interest in and to individual parcels of the Real Property.

a. The Real Property shall be conveyed pursuant to this Paragraph 3 in individual parcels of not less than 10 acres.

b. The price of any real property conveyed pursuant to this Paragraph 3 shall be Three Thousand and No/100 Dollars (\$3,000.00) per acre.

c. Provided that purchaser is not in default of any of the terms and conditions of this contract, purchaser shall be entitled to demand partial warranty fulfillment deeds from seller upon payment by purchaser of incremental amounts to the principal balance due under this contract of not less than \$30,000.00 each.

d. Purchaser shall pay all costs and fees incurred by seller in connection with preparation and delivery of any and all partial warranty fulfillment deeds given by seller pursuant to this Paragraph 3.

e. Purchaser may apply to the amounts due prerequisite to conveyance of individual parcels as contemplated in this Paragraph 3 any portion of the annual installment payments made pursuant to Paragraph 2 hereof which would otherwise be credited against the principal balance due under this contract. Any additional payments made by purchaser as consideration for conveyances made pursuant to this Paragraph 3 shall be deducted from the principal due under Paragraph 2 of this contract.

f. Purchaser expressly acknowledges that conveyances made by seller pursuant to this Paragraph 3 are subject to all applicable state, county and municipal laws regulating the subdivision, platting and use of the Real Property.

g. Seller shall have the option to refuse to release any parcels if, in seller's reasonable judgment, access to the remaining acreage would be substantially impaired. In the alternative, buyer may grant to seller any easements which seller deems necessary to secure access to the remainder of the acreage subject to this contract.

4. Purchaser may at his option pay the entire balance of the purchase price remaining due, or any part of such balance, at any time before maturity, without notice to seller and without penalty.

#### Date of Closing

5. As referred to in this contract, "date of closing" shall be July 20, 1989.

#### Closing Costs

6. Purchaser agrees to pay one-half of the escrow fee.

7. Seller agrees to pay one half of the escrow fee and all real estate excise tax.

8. Taxes for 1989 shall be prorated between, and assessed to, the respective parties as of date of closing.

9. Payments, if any, which are delinquent on encumbrances which will remain after closing are to be paid at closing from money due to or to be paid by seller.

#### Reservation of Seller; Covenant to Repair

10. Seller reserves unto seller, and unto its successors and assigns, all rights to harvest timber from the Real Property for a period of three years.

11. Seller agrees to repair any damages to the ground resulting from logging operations undertaken pursuant to Paragraph 10 hereof to the extent necessary to comply with the Washington Forest Practices Act and any and all regulations promulgated pursuant thereto.

#### Inspection

12. The purchaser agrees that full inspection of said real estate has been made and that neither the seller nor its assigns shall be held to any covenant respecting the condition of any improvements thereon nor shall the purchaser or seller or the assigns of either be held to any covenant or agreement for alterations, improvements or repairs unless the covenant or agreement relied on is contained herein or is in writing and attached to and made a part of this contract.

a. Purchaser is acquiring the property "as is" and seller makes no representations or warranties except as to title as set forth herein. Without limiting the generality of the foregoing, purchaser acknowledges that he has made his own independent investigation respecting the property and will be relying entirely thereon and on the advice of any consultant he may retain. Purchaser may not rely upon any representation of any party whether or not such party purports to act on behalf of



seller, unless the representation is expressly set forth herein or in a subsequent document executed by seller. All representations, warranties, understandings, and agreements between purchaser and seller are merged herein and shall not survive closing.

#### Taking

13. The purchaser assume all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agree that any such taking shall not constitute a failure of consideration. In case any part of said real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to the sellers and applied as payment on the purchase price herein unless the sellers agree in writing to allow the purchaser to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking.

#### Insurance

14. The purchaser agrees to keep any improvements or future improvements located on the property insured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington in an amount equal to the full insurable value thereof, on the initial and renewal policy dates, with a company acceptable to the seller and with loss payable first to seller as their interest may appear, and to pay all premiums for such insurance and deliver all policies and renewals thereof to the seller. All such policies shall provide that they cannot be amended or canceled without ten (10) days written notice to seller.

#### Title Insurance

15. The seller has delivered, or agrees to deliver within fifteen (15) days of the date of closing, a purchaser's policy of title insurance in standard form, or a commitment therefor, issued by Safeco Title Insurance Company, insuring the purchasers to the full amount of said purchase price against loss or damage by reason of defect in title to said real estate as of the date of closing and containing no exceptions other than the following:

- a. Printed general exceptions appearing in said policy form; and
- b. Reservations, liens or encumbrances which by the terms of this contract the purchaser is to assume, or as to which the conveyance hereunder is to be made subject.

#### Other Encumbrances Against the Property.

16. Purchaser specifically understands and agrees that the subject real property is or may be subject to the terms, covenants and conditions contained in any application for Current Use classification, including liability for future taxes, rollbacks, penalties and interest upon breach of, or withdrawal of the real property from its current classification as "forest land."

Deed

17. The seller agrees that, upon receiving full payment of the purchase price and interest in the manner above specified, seller shall execute and deliver to purchaser a statutory warranty fulfillment deed to the Real Property, excepting any part thereof hereafter taken for public use, free of encumbrances except any that may attach after date of closing through any person other than the sellers, and subject to the standard policy exceptions.

Seller's Covenants

18. The seller has deposited with Skamania County Title Company, Stevenson, Washington, a Warranty Deed in fulfillment of this real estate contract and agree that upon full payment of the purchase price and interest in the manner hereinbefore specified that said deed can be delivered to the purchaser; that said Warranty Deed excepts any part of the property which may hereafter be condemned and is free and clear of all encumbrances, except those mentioned herein and any that may accrue hereafter through any person, or persons, other than the seller.

Possession

19. Purchaser shall be entitled to possession of the Real Property on the date of closing and to retain possession for so long as purchaser is not in default hereunder. The purchaser covenants to keep any improvements on the Real Property in good repair and not to permit waste and not to use, or permit the use of, the Real Property for any illegal purpose. The purchaser covenants to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to the Real Property after the date purchaser is entitled to possession.

Use of Premises

20. Purchaser covenants and agrees to make or permit no unlawful, offensive or improper use of the premises or any part thereof.

Default

21. In case the purchaser fails to make any payment herein provided, the seller may make such payment, and any amounts so paid by seller, together with interest at the rate of 12% per annum thereon from date of payment until repaid, shall be repayable by purchaser on seller's demand, all without prejudice to any other right the seller might have by reason of such default.

22. Time and the covenants of purchaser are of the essence of this contract, and it is agreed that in case the purchaser shall fail to comply with or perform any condition or agreement hereof or to make any payment required hereunder promptly at the time and in the manner herein required, the seller may at its option exercise any of the following alternative remedies upon giving purchaser thirty (30) days' written notice specifying the default and the remedy to be exercised should purchaser fail to secure all defaults at the expiration of the 30-day period;

- a. Suit for delinquencies. Seller may institute suit for any installments or other sums then due and payable under this agreement, together with any sums advanced by seller for purposes of remedying any



delinquencies for water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from the date each such payment was advanced or due, as the case may be.

- b. Forfeiture and Repossession. The seller may cancel and render void all rights, titles and interests of the purchaser and his successors in this contract and in the property (including all of purchaser's then existing rights, interests and estates therein and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the seller records a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract the seller may retain all payments made hereunder by the purchaser and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the purchaser and any person or persons having possession of the said property by, through or under the purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the purchaser or any person or persons claiming by, through or under the purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the purchaser, or such person or persons, shall be deemed tenants at will of the seller and the seller shall be entitled to institute an action for summary possession of the property, and may recover from the purchaser or such person or persons in any such proceedings the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the seller's reasonable attorneys' fees.
- c. Specific Performance. Seller may institute suit to specifically enforce any of the purchaser's covenants hereunder.
- d. Property Rental. In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the purchaser and the seller, and the purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the purchaser agrees that he will occupy the property as a tenant at will, and the purchaser shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the installment amount as and when provided for in the specific terms hereof, and the seller shall have, in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute an action for summary possession of the property as provided by law.

23. a. In the event seller should default in any of its obligations under this contract and such default continues for fifteen (15) days after the purchaser gives the seller written notice specifying the nature thereof and the acts required to cure the same, the purchaser shall have the right to specifically enforce this contract, institute suit for his damages caused by such default, or pursue any other remedy which may be available to purchaser at law or in equity.

b. The waiver of seller to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the purchaser shall be deemed only an indulgence by the seller with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of seller to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the seller to utilize any particular remedy to enforce a breach of this contract shall not preclude sellers from electing to use an alternate remedy to enforce a subsequent breach. The remedies stated herein are cumulative and not mutually exclusive. Any delay or failure of seller to take action upon default shall not be construed as a waiver of said default.

#### Notice

24. Any notice, declaration, demand, consent or communication to be given by any party to this contract to any other party shall be in writing and transmitted to the other party by either personally delivering the notice or by certified or registered mail, return receipt requested, addressed as follows:

To purchaser:

Mr. Russ Gaynor  
P. O. Box 732  
Lyle WA 98635

To seller:

Hambleton Bros. Lumber Co.  
P. O. Box 285  
Washougal WA 98671

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event shall sellers be required to send any notice to more than two (2) addresses. The mailing and registering or certifying of any such notice as herein provided shall be sufficient service thereof. Service shall be complete when such notice is registered or certified and placed in the United States mail as shown by the cancellation stamp or postage meter stamp, as the case may be.

#### Costs and Attorneys' Fees

25. If either party shall be in default under this contract, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney to make any demand, enforce any remedy, or otherwise protect or enforce its rights under this contract. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, court costs, notice expenses, title search expenses, and reasonable attorneys' fees (with or without arbitration or litigation). In the event either party hereto institutes any action to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorneys' fees, including such costs and fees as are incurred on appeal. All reimbursements required by this paragraph







STATE OF WASHINGTON )  
 ) ss  
 County of Clark )

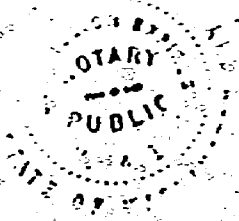
On this day personally appeared before me JAMES HAMBLETON, to me known to be the President of HAMBLETON BROS. LUMBER CO., a Washington corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed this 24th day of June, 1989.

*July*

*Carabelle M. Hubbard*  
 Notary Public in and for  
 the State of Washington  
 residing at *Washougal*

Commission expires: 11/24/92



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