

1989

Velma Foote, Lucille S. Dalley, June Scott, W.
Duane Burge, Shirley B. Coleman, Linda B. Saxey,
Carol B. Butterfield, Louise B. Perry, and David W.
Burge v. Norma S. Smith : Brief of Respondent

Utah Court of Appeals

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BRIEF

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IN THE SUPREME COURT OF THE STATE OF UTAH

89-0277

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DOCKET NO. ~~NONE~~ SCOTT W. DUANE BURGE, SHIRLEY B.
COLEMAN, LINDA B. SAXEY, CAROL B.
BUTTERFIELD, LOUISE B. PERRY AND
DAVID W. BURGE,

PLAINTIFFS/RESPONDENTS

CASE No. 880394

VS.

NORMA S. SMITH

DEFENDANT/APPELLANT

89-0277
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BRIEF OF RESPONDENTS

APPEAL FROM A JUDGMENT OF THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH, HONORABLE BOYD L. PARK PRESIDING

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DEPOSITED BY THE
STATE OF UTAH
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IN THE SUPREME COURT OF THE STATE OF UTAH

VELMA FOOTE, LUCILLE S. DALLEY,
JUNE SCOTT, W. DUANE BURGE, SHIRLEY B.
COLEMAN, LINDA B. SAXEY, CAROL B.
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STATEMENT OF ISSUES PRESENTED ON APPEAL

Was there evidence properly before the trier of fact below to sustain a finding that the subject deeds were materially altered, following their execution, under a standard of clear and convincing evidence?

STATEMENT OF THE CASE

This is an appeal from judgment entered by Judge Park on April 6, 1988 in an action for the equitable reformation of various deeds. The court held that the Provo Property Warranty Deed (exhibit 11 below, Appendix "A" attached hereto and hereinafter referred to as the "Provo Deed") remained in Emma Scott at the time of her death. The attempt to create a co-tenancy by adding the names Velma S. Foote, Lucile S. Dalley, June Scott, Verlon Scott and Norma S. Smith as joint tenants with full rights of survivorship was held a nullity with no legal effect. The court below based this holding upon a showing of clear and convincing evidence. The central allegation of the plaintiffs below was that the Provo Deed had been materially altered following its execution but prior to its recording and therefore was neither legally sound nor did it reflect the intentions of the grantors.

STANDARD OF REVIEW

This case, involving the equitable reformation of a deed under the evidentiary standard of clear and convincing proof, should be reviewed under the standards restated in Pagano v. Walker, 539 P.2d 452 (Utah 1975). The Pagano court held that "due to the advantaged position of the trial court we will review its findings and judgments with considerable indulgence, and will not disagree with and upset them unless the evidence clearly preponderates against them, or the court has mistaken or misapplied the law applicable." (Pagano at 454)

STATEMENT OF FACTS

Because this appeal concerns only the property covered by the Provo Deed, the respondents will not burden this court with a discussion of the other deeds which were involved below except as they affect the Provo Deed. The Provo Deed represents the transfer of property previously represented in two deeds (exhibits 3 & 8) and a third piece which had not been previously conveyed by the subject deeds below.

In order to appreciate the fact of this case, this court should understand that the parties proudly come from pioneer stock and their rural Utah background reflects the values of that heritage. For example, Verlon Scott, as only son, received a larger portion of land located in Utah County in order to continue his farming activities. (T. 6-7) The pioneer and rural agrarian background of these folks provides a backdrop against which the testimony of the parties may be placed. When we come to the testimony of Velma Foote concerning her mother's reasons for maintaining sole ownership of the property represented by the Provo Deed, we shall see how these considerations could assist the court below in weighing the relative merits of the testimony and other evidence presented.

Finally, because the bulk of this appeal involves a marshalling of the facts and arguing that they supported the findings of the court below, the respondents will forego further detail in their statement of facts as such, and present further factual information in the form of argument.

SUMMARY OF ARGUMENT

The appellant's brief fails to assist this court in several respects. First of all, it fails to supply the Court with the appropriate standard of review, which is that the findings of the court below will not be disturbed absent a showing that this court will review those findings with considerable indulgence due to the advantaged position of the trial court and will not disturb those findings unless the evidence clearly preponderates against them, or

the court has mistaken or misapplied the law applicable thereto. Since the appellant has not argued that the trial court misapplied law, the only contentions raised by the appellant involve issues of fact and evidence. Accordingly, unless the appellant meets the significant burden of demonstrating that the evidence presented clearly preponderates against the findings below, the judgment must stand.

The appellant, instead of addressing whether or not the evidence presented preponderates against the judgment and findings, merely argues that it was not sufficient to support the findings of the court. The appellant simply attempts to attack the credibility of the evidence presented, but makes no showing of a preponderance of evidence which is clearly against the findings. The appellant fails to meet her burdens under the appropriate standard of review, and her appeal must fail. The appropriate standard of review will be established in point one of this brief.

The appellant's brief endeavors to draw the attention of this Court to issues regarding the sufficiency of evidence in support of the findings below. The appellant criticises the findings as being unsupported. The court, in making its findings, relied upon two sources of evidence, (1) the testimony presented at trial, and (2) the face of the document itself. The appellant criticizes the testimony of Velma Foote as being inconsistent, which as we shall see is unfounded.

The appellant ignores other testimony presented at trial which the court may have relied upon in reaching the conclusion the the Provo Deed was materially altered following its execution. The findings state that the court "having heard the evidence and reviewed the exhibits introduced into evidence" made its findings of fact and conclusions of law. The court did not say, "having relied exclusively upon the testimony of Velma Foote and reviewed the exhibits introduced into evidence" the court made findings and conclusions. Insofar as the appellant's arguments do not address other relevant testimony aside from that of Velma Foote, the appellant fails to demonstrate that there was no competent and sufficient testimony upon which its finding could be made. Nevertheless, the appellant

spends much time dwelling upon the credibility of the testimony of Velma Foote and the respondents must reply to those allegations. Velma Foote testified that the Provo Deed was in the name of her mother, Emma Scott only when the deed was executed, but that the other names were added later. Velma Foote was in the best possible position to understand the documents and testify as to their contents. Seven of ten deeds in question in this case were recorded at her request, and she was a central figure in the events surrounding the execution of the deeds. (T. 32-55) This suit was brought by three sisters, Velma Foote, June Scott and Lucille Dalley in order to make the deeds conform to the desires of their parents, even though they all would lose property should the case prove successful. These concerns will occupy the second point of the respondents' brief.

The third point of the respondents' brief will address the document itself. There is ample evidence on the face of the Provo Deed itself that alterations were made after the execution of the document. Together with the testimony presented it amply supports the courts findings.

POINT I

THIS APPEAL SHOULD BE DISMISSED DUE TO THE APPELLANT'S FAILURE TO MARSHALL EVIDENCE FOR THIS COURT SUFFICIENT TO JUSTIFY THE RELIEF SOUGHT UNDER THE APPROPRIATE STANDARD OF REVIEW

An appellant bears important duties in structuring the issues before this court. The appellant has failed to meet one of these duties. The appellant should provide the court with guidance as to the appropriate standard of review. The respondent will therefore undertake that responsibility.

The present case reflects the plaintiffs' successful attempt to reform a deed. Such proceedings are actions in equity. In Battistone v. American Land and Development Co., 607 P.2d 837 (Utah 1980), the court held that "an attempt to reform a deed is a proceeding in equity." (Battistone at 839) This court must review the transcript and record below under the standard appropriate to cases in equity.

In Pagano v. Walker, 539 P.2d 452 (Utah 1975), this court stated the standard of review appropriate for cases of equity.

[B]ecause of the verity accorded written instruments, its effect can only be overcome by clear and convincing evidence.

In determining whether the evidence meets this standard, in equity cases such as this, the court may review the facts. However, it has long been established and reiterated by this court in numerous cases that due to the advantaged position of the trial court we will review its findings and judgments with considerable indulgence, and will not disagree with and upset them unless the evidence clearly preponderates against them, or the court has mistaken the law applicable thereto.

Pagano at 454, emphasis added. This position was restated more recently in Jensen v. Brown, 639 P.2d 150 (Utah 1981) and Tanner v. Baadsgaard, 612 P.2d 345 (Utah 1980). In fact, as was noted in Pagano, the cases outlining this position are quite numerous, too numerous to be cited in a brief of restricted length.

This court then has two duties. The first is to determine if, upon examination of the record and transcripts below, the evidence clearly preponderates against the findings of the court. The second is to determine if the court below misapplied the law. The appellant has raised no issue regarding the applicable law, including the standard of appellate review, or the trial court's misapplication of the law.

When reviewing the record and evidence presented at trial, the Court should remember that this inquiry is not one of first impression, the standard of appellate review requires this court to give considerable deference to the privileged position of the trial court. Accordingly, unless the appellant marshalls all relevant evidence, as is her burden (see Harline v. Campbell, 728 P.2d 980 (Utah 1986) at 982)) and presents argument that demonstrates clearly that the evidence preponderated against the findings, the appeal must fail.

In reviewing the level of requisite proof, the court should note that the trial court understood that the evidence presented to support plaintiff's case had to be both clear and convincing. (T. 10) The appellant has provided numerous definitions of "clear and convincing evidence" in her brief. One in particular proves insightful and deserving of the attention of this court.

[F]or a matter to be clear and convincing to a particular mind it must have reached the point where there remains no serious or substantial doubt as to the correctness of the conclusion. A mind which was of the opinion that it was convinced and yet which entertained, not a slight, but a reasonable doubt as to the correctness of its conclusion, would seem to be in a state of confusion.

Appellant's Brief at 12, citing Greener v. Greener, 212 P.2d 194 (Utah 1949). In order for an appellate court to adequately assess the weight of the facts based solely upon a dead record or transcript, it needs to search for whether or not the record addresses the weight assigned to a particular fact by the trier of fact. In this case, the appellant wishes to convince this court that the trier of fact did not, and could not, find the evidence supporting its findings clear and convincing.

There is no evidence indicating a reasonable doubt in the mind of the trial court regarding the fact that the evidence supporting the reformation of the deed was clear and convincing. Without such an indication of a doubtful mental state of the trial judge, this court must rely upon the representations of the attorneys regarding the weight of the evidence below.

The positions of the parties, rather than drawing upon objective evidence and arguing it in an organized fashion, become positions of complete subjectivity. Each attempts to impeach the witnesses of the other anew, to demonstrate why the court shouldn't have relied on this witness versus that witness or to draw upon irrelevant and immaterial issues and dwell upon them. In the final analysis, these activities justify the court's search the record for evidence of a doubtful mind. Absent such evidence, the

indulgences of this court require it to give way to the privileged position of the trier of fact below and to uphold its findings. Accordingly, the appellant's suggestion that "[t]his court can examine the same deed and draw whatever conclusions it wishes" is incongruent with the established standard of review in cases of equity, and should not be undertaken by this court. (Appellant's Brief at 8)

POINT II

APPELLANT'S ALLEGATIONS CONCERNING THE RELIABILITY OF VELMA FOOTE'S TESTIMONY ARE UNFOUNDED

The appellant has based a substantial portion of her brief upon the notion that Velma Foote's testimony was not credible and was inconsistent. The respondents must reply to those allegations.

The appellant confuses the notion of disputed fact with that of inconsistent testimony. The appellant states the "inconsistencies" complained of:

The inconsistencies are she claimed not to have seen the deed after she gave instruction for the names to be added to it, yet it is clear it was she who recorded it.

(Appellant's brief at 9). The first sentence of the alleged inconsistency quoted above states that (1) Velma didn't see the deed after giving a list of names to Mr. Mecham to be added to the deed, (2) that it was she who recorded the deed. There is no evidence in the record or the transcript of the trial that Velma Foote actually recorded the Provo Deed, and indeed the appellant cites no evidence taken from the record in support of the above quote. An examination of the Provo Deed reveals that it was "recorded at the request of Velma S. Foote", but the handwritten "Velma S. Foote" is not in Velma's writing and was probably placed there by someone at the recorder's office or possibly by Mr. Mecham. Mr. Mecham could have walked into the recorder's office and said "Velma S. Smith wants this deed recorded" and listed "Velma S. Smith" on the deed pursuant to that request. There is

no evidence that Velma was actually present at the time the deed was recorded. Her testimony that she never saw the deed after she instructed Mr. Mecham to record it is not therefore inconsistent, and is not contradicted by other testimony.

The appellant further alleges inconsistencies:

She also claims to have recorded or caused to be recorded the deed, Exhibit 11, in her mother's name only. An examination of Exhibit 11 shows she is clearly wrong. Exhibit 11 is a certified copy of the recorded deed. If it were recorded as Mrs. Foote testified it would show only the name of her mother. It does not. It contains the names of the other grantees.

(Appellant's Brief at 9-10). The appellant's complaint is of credible testimony, not of an inconsistency; the court found Velma's testimony credible. This entire law suit revolves around the issue of whether or not the Provo Deed was altered subsequent to its execution, and that was based upon the document itself and credible testimony offered at trial concerning its execution and its subsequent recording. This infers that there were "two" Provo Deeds, (1) the deed as executed, and (2) the deed as recorded. Velma Foote's testimony is perfectly consistent with the deed as executed, but not with the deed as recorded. Accordingly, Velma's testimony is internally consistent. Her testimony simply differs with the deed as recorded and the court found that testimony credible. It was given in the successful and proper attempt to prove that the deed was materially altered following, not only its execution, but the death of one of the grantors, namely True Scott (T. 54), and was therefore invalid.

To further substantiate the credibility of Velma's testimony, the respondents draw the court's attention to pages 65 through 67 of the transcript. Counsel for the Appellant questioned and examined Velma Foote concerning the various properties owned by member of the family as represented in the deeds involved in the trial below. Velma was able on cross-examination to recall which lots belonged to who and whether or not there were homes on the lots, as this brief excerpt demonstrates:

Q All right Number 6?

A 6 is the Burge family.

Q Okay

A There is a home on it.

Q All right put a box around Number 6?

A Yes.

Q All right Number 7 if you can find it, what is 7?

A This is the property that Verlon had and that was the end of the True Scott lot. There was a home on it.

Q Is that just on the other side of the Burge?

A Yes.

Q Okay that is Number 7?

A Yes.

Q Have a box around there. And there is a home there?

A Right.

(T. at 67). There is ample evidence that Velma was a reliable and credible witness. Her knowledge of the properties in question was solid. The trial court had the opportunity to observe her testify and found her testimony, when coupled with the documents in evidence, credible.

The only other testimony presented at trial that was contrary to that of Velma Foote was presented by the defendant, Norma Smith. Norma testified that she was positive that the Provo Deed contained the names of grantees exactly as it appears on the recorded copy. (T. 126) An examination of her testimony reveals a defective memory, which could tend to make her testimony less credible in the eyes of the court:

The Witness: As I remember it and I don't remember what day it was and we filled out the one deed.

Q Which deed?

A I don't remember which one.

Q Okay.

A I have tried to but I can't remember.

(T. at 128-129). Aside from an inability to recall which dates and which documents were in question, Norma Smith had trouble recalling other details of the deeds:

Q Who was present [when exhibit 12 was executed and signed]?

A Like I said before my mother and my father Velma and myself.

Q No one else?

A No one else.

Q I would like to show you exhibit No. 12 (indicating) and I would like you to read me the date as to when his particular deed was signed by your parents?

A 25th day of February.

Q Not the 16th day of February?

A That is right.

Q Who witnessed that particular signature?

A Norma Smith and Velma written Velma Scott.

* * *

Q Is that Velma Scott or is that Verlon?

A Velma was the one that went with me when we both had then made out.

Q What does the signature say?

A I thought it was Velma, V-E-L-M-A.

Q I would just like the court at some point to take notice of whose signature that would be.

The Court: Well Velma at that time was known as Velma Foote Wasn't she?

Mr. Dunn: Yes she was ...

(T. 131-133). This Court may examine Exhibit 12 attached to Appellant's brief and will likewise notice that it was signed not by Velma Foote, but by Verlon Scott. Apparently he was at the meeting in question when the document was executed and signed, calling into doubt the recollection of Norma Smith.

Finally, the testimony of Velma Foote provides another piece of information which, when considered in connection with the pioneer background of the parties, adds additional credence to her testimony and further bolsters the courts regard for her powers of recollection and credibility. Explaining why Emma Scott's name appeared alone on the Provo Deed, Velma testifies:

Q So originally these properties then if I understand your testimony so we can make sure it is clear were deeded from your father to himself and his wife Emma Scott?

A Yes.

Q Okay.

A And at the same time we did one to my mother my dad leaving it to my mother.

Q Solely to your mother?

A Yes because she wanted to own some ground and know what it felt like to own something.

(T. at 50). Given the rural and pioneer heritage of this family, a heritage in which property was owned and pass down from father to son so long as male progeny held out, for Emma Scott to own some ground and to understand what that felt like is significant. Ownership of land was a badge of distinction for Emma Scott. This explains why the intent of True and Emma Scott was to grant all of their property to their children and the children of their deceased daughter Ira Burge, yet Emma retained sole ownership of the property represented by the Provo Deed.

Not only was the testimony of Velma Foote internally consistent and sound, but there she testified to related matters that gave further credibility to her rendition of the events surrounding the documents in question. This should be contrasted by Norma Smith's lack of certainty and recall concerning the events surrounding the execution of the deeds in question. The trial court correctly relied on the consistent and informed representations of Velma Foote. The appellant has failed to demonstrate that there is evidence which clearly preponderates against any findings made by the judge. The appeal must therefore fail.

POINT III

AN EXAMINATION OF THE FACE OF THE PROVO DEED ITSELF REVEALS THAT THE TRIAL COURT CORRECTLY FOUND IT TO HAVE BEEN MATERIALLY ALTERED, WHICH ALTERATIONS WERE VOID.

In its findings of fact, the court stated:

It is apparent on the face of the warranty deed that the original deed was altered. The distance between the comma after the word "wife" on the third line of the deed is closer than the other commas. The next two lines angle upward toward the right with the bottom of the beginning letter of the word "Velma" being slightly below the line and the final letter of the word "Smith" on the same line being substantially above the line. Finally, an "S" was not added to the word "grantee" on line six of the warranty deed. Those facts coupled with credible testimony that the warranty deed was altered by Arnold Mecham at the direction of Emma Scott after the death of True Scott, led this court to find that the original deed to the Provo property was altered. (See warranty deed, defendant's exhibit 11.)

(Findings of Fact and Conclusios of Law at 2-3). The appellant argues that exhibit 11 was not the only deed on which some of the lines are not parallel to the form lines on the deed. This is true., however, the Provo Deed is the only deed on which the first line listing the grantee (Emma Scott) runs parallell to the lines on the form and on which the lines listing

the other alleged grantees don't run parallel to the form. The respondents' contention is not only that the lines on the deeds are not parallel to the form deed, but that in the case of the Provo Deed, the typed lines are not parallel to each other. This is clear evidence that the subsequent lines were not typed at the same time as the first line listing "Emma Scott, his wife", that the deed was placed in a typewriter a second time, and the additional names typed onto the form.

The appellant raises a subsequent objection to the findings of the court regarding the deed itself, arguing that because the court used a photocopy of the Provo Deed, it could not extract clear and convincing evidence of irregularities from the document itself. With reference to the comma appearing after the words "his wife", the top of the comma nearly touched the "e" at the end of the word "wife". Upon examination of the position of the commas found elsewhere on that document one readily concludes that it is much closer to the letter "e" in wife than it is to the final letter "e" on the next line in "Velma Foote". It is much closer than the letter "t" on the same line after the words "Emma Scott". Typewriters such as the one employed obviously did not employ techniques of kerning in their type style. That is, the type fonts are monospaced, with each letter or character (in this case a punctuation mark) occupying an equal amount of space on the line. One can use the word processing techniques used today, but unavailable in 1970, to demonstrate how this affects the court's proper reliance on the position of the comma as clear and convincing evidence of alteration.

This line is monospaced. Note the uniform space occupied by the letters "i" and "s" in the word "This", and the letters "o", "t" and "e" in the word "Note". Punctuation sample: ,.;:"'

This line is kerned. Notice how the letters "o" and "c" in the word "Notice" are about 1/16 of an inch wide, while the letter "i" in the same word is about 1/64th of an inch wide. Typewriters of the very early 1970s didn't employ this kind of kerning. Punctuation sample: ,.;:"'

The amount of space between the comma following "his wife" is much smaller than it should be if the names of the grantees under the deed had in fact been typed at the time of execution. This proves quite convincing in establishing a clear and obvious alteration made after the execution of the deed. In fact, it is an insightful and intelligent conclusion made by Judge Park. The document does, in fact, contain ample evidence of alteration, and it is both clear and convincing in light of the technologies of the times. Accordingly, the appeal must fail.

CONCLUSIONS

The appellant, under the appropriate standard of appellate review, has failed to demonstrate that the evidence presented at trial clearly preponderated against the findings of the court. In an effort perhaps intended to do so, the appellant has merely argued that the testimony of Velma Foote was not credible and that the face of the document did not reveal clear and convincing evidence that the deed had been altered. The appellant would have this court substitute its judgment for that of the trial bench based upon these thin arguments. The respondents have not only demonstrated a sufficiency of clear and convincing evidence but have established the decisiveness of that evidence and that the court had no choice but to recognize the obvious alterations present. To have decided otherwise at trial would have resulted in findings clearly against the weight of the evidence and in violation of applicable law. This court, in recognizing the advantaged position of the trial court in this matter should establish the propriety of the trial court's activities by

dismissing this appeal, together with costs and other remedies this court sees fit, within the bounds of justice and equity.

DATED this 10th day of April, 1989.


A handwritten signature in black ink, appearing to read 'Mark Dalton Dunn', written over a horizontal line.

MARK DALTON DUNN
DUNN & DUNN
ATTORNEYS FOR RESPONDENTS

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Respondent's Brief
was mailed postage prepaid this 16th day of April, 1989, to:

Brent D. Young, Esq.
IVIE & YOUNG
48 North University Avenue
P. O. Box 672
Provo, Utah 84603


Carolyn H. Bringhurst

Secretary

APPENDIX "A"
THE PROVO DEED

4847

WARRANTY DEED

F 2292

F 2004

F 2004-2

True Scott and Emma Scott, his wife

Grantor, of Provo, Utah County, Utah
 hereby CONVEY AND WARRANT to Emma Scott, his wife,
 Velma S. Foote, Lucile S. Dalley, Alma Scott, Verlon Scott and Norma Smith
 as joint tenants, with full rights of survivorship
 Grantee, of Provo, Utah County, Utah
 for the sum of _____ ton _____ DOLLARS
 and other valuable consideration
 the following described tract of land in Utah County,
 State of Utah, to-wit:

Commencing 16.72 chains west and 0.25 chain south of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east of the Salt Lake Base and Meridian;
 thence south 1 deg. west 33.20 chains;
 thence south 52 deg. west 2.28 chains;
 thence north 40 deg. west 4.95 chains;
 thence north 1 deg. east 31 chains;
 thence east 3.18 chains;
 thence south 0.25 chain;
 thence east 1.77 chains to beginning.
 Area 16.20 acres, more or less.

Together with a right of way described as follows:
 Commencing 11.30 chains west of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east, S.L.B. & M.;
 thence south 1 deg. west 27.30 chains;
 thence south 52 deg. west 0.32 chain;
 thence north 1 deg. east 29.25 chains;
 thence west 6.74 chains;
 thence north 0.25 chain;
 thence east 6.99 chains to beginning.

Commencing 21.67 chains west of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east, S.L.B. & M.;
 thence west 3.02 chains;
 thence south 1 deg. west 26.13 chains;
 thence south 40 deg. east 4.51 chains;
 thence north 1 deg. east 29.19 chains
 to the place of beginning.

Together with accretion land lying south of the above described lands.

Commencing in the West boundary of 1600 West Street, Provo, Utah at a point South along the Section line 850.79 feet and West 745.43 feet from the North quarter corner of Section 11, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence South 0°49'20" West along said street boundary 385.16 feet to a fence corner; thence North 89°19'50" West along said fence line 1307.60 feet; thence North 1°07'20" East along the fence line 390.48 feet; thence South 89°30'20" East along the fence line 246.27 feet; thence North 1°07'10" East along the fence line 475.29 feet; thence South 89°29' East along the fence line 769.97 feet; thence South 0°49'20" West parallel with said street boundary 482.69 feet; thence South 89°10'40" East 286.86 feet to said street boundary; and the point of beginning. Area = 20.13 acres.

Commencing in the West boundary of 1600 West Street, Provo, Utah at a point South along the quarter section line 688.12 feet and West 743.09 feet from the North quarter corner of Section 11, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence South 0°49'20" West along said street boundary 81.34 feet; thence North 89°10'40" West 286.86 feet; thence North 0°49'20" East 81.34 feet; thence South 89°10'40" East 286.86 feet to beginning. Area = 0.333 acres.

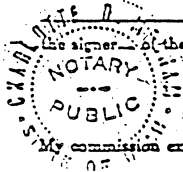
Together with all water rights.
 Together with any undiscovered property.

WITNESS THE HAND of said Grantor this 16th day of Feb. A. D. 19 70

Signed in the presence of
Anna S. Scott
Thelma S. Scott } True Scott
Emma Scott

STATE OF UTAH,
 County of Utah }

On the 16th day of Feb. A. D. 19 70, personally appeared
 before me, a Notary Public in and for the State of Utah,
 True Scott and Emma Scott, his wife



The signer of the above instrument, who duly acknowledged to me that he executed the same.
Charles H. McLean
 Notary Public
 My commission expires August 15, 1971 Residing at Springville, Utah

309 South
 1690 East
 St. George, Utah

RECORDED AT THE OFFICE OF
 DEANARD J. JACOBI
 JAN 20 1971 10 01 2:50
 BOOK PAGE

4847

MAIL TAX NOTICE TO

4847

WARRANTY DEED

F 2282

= 2004

: 2004-2

True Scott and Emma Scott, his wife

ator of Provo, Utah County, Utah

by CONVEY AND WARRANT to Emma Scott, his wife,

Anna S. Foote, Lucile S. Dalley, June Scott, Varlon Scott and Norma Smith
as joint tenants, with full rights of survivorship

reside of Provo, Utah County, Utah

the sum of ten DOLLARS

and other valuable consideration
following described tract of land in Utah County,

of Utah, to-wit:

✓ Commencing 16.72 chains west and 0.25 chain south of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east of the Salt Lake Base and Meridian;
thence south 1 deg. west 33.20 chains;
thence south 52 deg. west 2.28 chains;
thence north 40 deg. west 4.95 chains;
thence north 1 deg. east 31 chains;
thence east 3.18 chains;
thence south 0.25 chain;
thence east 1.77 chains to beginning.
Area 16.20 acres, more or less.

Together with a right of way described as follows:

Commencing 11.50 chains west of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east, S.L.B. & M.;
thence south 1 deg. west 29.30 chains;
thence south 52 deg. west 0.32 chain;
thence north 1 deg. east 29.25 chains;
thence west 6.74 chains;
thence north 0.25 chain;
thence east 6.99 chains to beginning.

✓ Commencing 21.67 chains west of the Northeast corner of the Northwest quarter of Section 14, Township 7 south, Range 2 east, S.L.B. & M.;
thence west 3.02 chains;
thence south 1 deg. west 26.13 chains;
thence south 40 deg. east 4.51 chains;
thence north 1 deg. east 29.19 chains
to the place of beginning.

Together with accretion land lying south of the above described lands.

Commencing in the West boundary of 1600 West Street, Provo, Utah at
Point South along the Section line 850.79 feet and West 745.43 feet
the North quarter corner of Section 11, Township 7. South, Range 2
, Salt Lake Base and Meridian; thence South $0^{\circ}49'20''$ West along said
boundary 385.16 feet to a fence corner; thence North $89^{\circ}19'50''$ West
along said fence line 1307.60 feet; thence North $1^{\circ}07'20''$ East along the