

1980

# Wilford Leslie Neves and Gloria Gay Neves, His Wife v. Bruce Earl Wright and Shonnie C. Wright, His Wife : Brief of Appellants

Utah Supreme Court

Follow this and additional works at: [https://digitalcommons.law.byu.edu/uofu\\_sc2](https://digitalcommons.law.byu.edu/uofu_sc2)



Part of the [Law Commons](#)

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors.

M. DAYLE JEFFS; Attorneys for Defendants and Appellants KEITH E. SOHM; Attorneys for Plaintiffs and Respondents

---

## Recommended Citation

Brief of Appellant, *Neves v. Wright*, No. 16910 (Utah Supreme Court, 1980).  
[https://digitalcommons.law.byu.edu/uofu\\_sc2/2185](https://digitalcommons.law.byu.edu/uofu_sc2/2185)

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (1965 –) by an authorized administrator of BYU Law Digital Commons. For more information, please contact [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu).

IN THE SUPREME COURT OF THE  
STATE OF UTAH

WILFORD LESLIE NEVES and  
GLORIA GAY NEVES, his wife,

Plaintiffs and  
Respondents,

vs.

BRUCE EARL WRIGHT and  
SHONNIE C. WRIGHT, his wife,

Defendants and  
Appellants,

Case No. 16910

BRIEF OF APPELLANTS

Appeal From Judgment of the Fourth  
Judicial District Court of Utah  
County, Honorable George E. Ballif,  
Judge

M. DAYLE JEFFS  
Jeffs and Jeffs  
90 North 100 East  
P. O. Box 683  
Provo, Utah 84601

Attorneys for Defendants  
and Appellants

KEITH E. SOHM  
23rd Floor University Club Bldg.  
136 East South Temple  
Salt Lake City, Utah 84111

Attorneys for Plaintiffs  
and Respondents

FILED

JUL 16 1980

Clerk, Supreme Court, Utah

## TABLE OF CONTENTS

	<u>Page</u>
NATURE OF THE CASE	1
DISPOSITION IN THE LOWER COURT	2
RELIEF SOUGHT ON APPEAL	2
STATEMENT OF FACTS	3
ARGUMENT	5
POINT I	
THE TRIAL COURT ERRED IN HOLDING THAT FAILURE OF THE DEFENDANT-APPELLANTS TO DISCLOSE THAT THE PROPERTY WAS BEING HELD IN TRUST FOR THE DEFENDANT-APPELLANTS BY THE PARENTS OF BRUCE E. WRIGHT WAS A BREACH OF CONTRACT ENTITLING PLAINTIFF- RESPONDENTS TO RESCIND THE CONTRACT	5
POINT II	16
THE TRIAL COURT ERRED IN FAILING TO GRANT THE DEFENDANT-APPELLANT SELLERS' COUNTER- CLAIM FOR DAMAGES	
CONCLUSION	18

## CASES CITED

	<u>Page</u>
Corporation Nine v. Taylor, 30 Utah 2d 47, 513 P.2d 417 (1973)	14
Leavitt v. Blohm, 11 Utah 2d 220, 357 P.2d 190 (1960)	8,9,10
Hall v. Turner, 26 Utah 2d 124, 485 P.2d 1402 (1971)	13
Walker v. Bintz and Shaw, 3 Utah 2d 162, 280 P.2d 767 (1955)	16
Woodard et ux v. Allen, 1 Utah 2d 220, 265 P.2d 398 (1953)	7,8,17

IN THE SUPREME COURT OF THE  
STATE OF UTAH

WILFORD LESLIE NEVES and  
GLORIA GAY NEVES, his wife,  
  
Plaintiffs and  
Respondents,

vs.

BRUCE EARL WRIGHT and  
SHONNIE C. WRIGHT, his wife,  
  
Defendants and  
Appellants,

Case No. 16910

BRIEF OF APPELLANTS

NATURE OF THE CASE

Plaintiffs-respondents, as buyers of real estate at Fillmore, Utah, commenced this action asking the trial Court to declare the purchase contract rescinded or in the alternative to declare that the defendants-appellants had breached the contract and ordering the return of the property and money paid by the plaintiffs-respondents buyers on the contract. Defendants-appellants sellers denied the breach of the contract or the right to rescind and counterclaimed for breach of contract by the buyers for failure to meet payments under the contract and asking the trial court to award damages for breach of contract. Prior to the trial of the matter, the parties

stipulated for the sale of the property. The matter was tried on the issue of the plaintiffs right to rescind or the defendants right to damages for breach of contract.

#### DISPOSITION IN THE LOWER COURT

The case was tried without a jury before the Honorable George E. Ballif, who entered judgment in favor of the plaintiffs-respondents buyers and against the defendants-appellants sellers. The Court entered a Memorandum decision awarding to plaintiffs \$3,000.00 plus the cash paid under the contract less \$200.00 per month rental for the period of occupancy. Based upon such decision, the plaintiffs-respondents submitted a judgment which included \$1,918.00 attorney's fees and \$604.50 interest. Defendants-appellants made a motion to strike the attorney's fees. The motion was granted and after the ruling on attorney's fees, defendants-appellants filed their Notice of Appeal.

#### RELIEF SOUGHT ON APPEAL

Defendants-appellants seek to have the Supreme Court reverse the trial court decision and rule that the trial Court erred when it held that the failure of defendants-appellants to disclose that they did not have title to the property at the time of the execution of the contract gave the plaintiffs-respondents the right to rescind the contract of sale. Defendants-appellants also seek to have the Court rule that the plaintiffs-respondents breached the contract of sale by failing to make payments under the contract entitling defendants-

respondents to damages.

### STATEMENT OF FACTS

The facts relevant to the issues of this appeal are not in dispute.

The defendant-appellant seller, Bruce Earl Wright, had been a stockholder of and engaged in business under the name of Wright's Ranch, Inc. prior to January, 1977. Such business was engaged in the wholesale distribution of milk products produced by Western General Dairies. Upon the termination of that business relationship, Western General Dairies entered into a lawsuit against Wright's Ranch, Inc. and against defendant, Bruce E. Wright (Rec. 122:17-30). Following the termination of Wright's Ranch, Inc., defendant-appellants moved to Provo, Utah County and in April of 1977 advertised their Fillmore property for sale. At that time, in connection with its lawsuit, Western General Dairies' legal counsel threatened to issue a Writ of Attachment against the defendant-appellants' Wright's home even though they had no security interest in the home and no judgment against the Wrights. Exhibit 10 was the first letter threatening attachment. Exhibit 11 was the second letter threatening attachment (Rec. 124:8-11). Defendant-appellants, at the time they received the threats of attachment, were negotiating for the sale to the plaintiff-respondents of their residence in Fillmore, Utah (Rec. 144:22-30, 145:1). In the face of such threats, the defendant-appellants and the parents of the defendant-appellants, sought legal counsel as a means to protect the home for the defendants,

Bruce and Shonnie Wright (Rec. 149:26-29). Based upon the advice of counsel, the defendants, Bruce E. Wright and Shonnie C. Wright executed a Quit Claim Deed (Ex. 4) transferring the property to Bruce Wright's parents (Rec. 124:14-23). The deed was delivered upon an oral agreement that the parents would hold the property until the termination of the suit by Western General Dairies against Bruce Earl Wright and then would be deeded back to Bruce and Shonnie Wright (Rec. 139:3-14). Such testimony was corroborated by the testimony of the parent, Earl E. Wright (Rec. 150:18-21, 151:6-13). The purpose of the conveyance was to protect the ownership of the home for the defendants, Bruce Earl Wright and Shonnie Wright (Rec. 151:11-13). No consideration was given for the execution of the deed and the parents of Bruce Earl Wright never claimed an interest in the property (Rec. 153:1-7).

On April 19, 1977, the plaintiff-respondents and defendant-appellants entered into a Uniform Real Estate Contract (Ex. 9, Rec. 106:15-18). No disclosure was made to the plaintiff-respondents by the defendant-appellants regarding the conveyance of the property to the parents under the oral trust to hold it until the termination of the litigation with Western General Dairies (Rec. 142:27-30, 143:1-3). Plaintiffs took possession and began making payments upon the purchase contract and to First Security Bank, the first mortgage holder.

On May 31, 1977, the parties acquired proper legal descriptions, re-signed the Uniform Real Estate Contract (Ex.



9) as Exhibit 1 and executed an escrow agreement. They deposited with the escrow agent a deed to the property to be delivered to plaintiff-respondent buyers upon the completion of the purchase. In February of 1978, plaintiff-respondents became aware through an examination of the County Recorder's Office that the defendant-appellants had conveyed the property to Mr. Wright's parents. Through counsel, plaintiff-respondents sent notices that they were vacating the property and tendering the property back to the defendant-sellers and refusing to make further payments. Plaintiff-respondents' letters were received in evidence as Exhibits 6, 7 and 8. In June of 1978, the defendant-appellant sellers negotiated and obtained an order dismissing the Western General Dairies lawsuit as against Bruce E. Wright, a copy of that dismissal was received by the Court as Exhibit 12 (Rec. 125:13-19). In December, 1978, the parents of Bruce E. Wright reconveyed the property to the defendant-appellant sellers herein, Bruce E. Wright and Shonnie C. Wright (Ex. 13, Rec. 125:25-3, 126:1-6). The parents gave the reconveyance without consideration and under the terms of the oral trust agreement to hold the property for the beneficial interest of Bruce Earl Wright and Shonnie C. Wright (Rec. 151:6-13, 152:4-20).

#### ARGUMENT

##### POINT I

THE TRIAL COURT ERRED IN HOLDING THAT FAILURE OF THE DEFENDANT-APPELLANTS TO DISCLOSE THAT THE PROPERTY WAS BEING HELD IN TRUST FOR THE DEFENDANT-APPELLANTS BY

THE PARENTS OF BRUCE E. WRIGHT WAS A BREACH OF CONTRACT  
ENTITLING PLAINTIFF-RESPONDENTS TO RESCIND THE CONTRACT

The evidence presented by the defendant-appellants was not challenged or disputed by the plaintiff-respondents. That evidence shows that prior to the time of the formalization of the sale to the plaintiff-respondents, and during the negotiations, defendant-appellants received a threat by a purported creditor with whom they were in litigation. The creditor threatened to attach the property which defendant-appellants were about to sell to plaintiff-respondents, (Exs. 10 and 11). Under advice of counsel, defendant-appellants transferred the title to the parents of Bruce Earl Wright, one of the defendant-appellants, under an oral trust. The terms of the oral trust were that the parents would hold the property for the benefit of the defendant-appellants for the purpose of protecting the property so that a sale could be consummated (Rec 151:6-13, 153:1-5). Thereafter, a Real Estate Contract was drafted by the parties, themselves, on April 19, 1977, for the sale of the property in accordance with its terms (Ex. 9).

Subsequent to the execution of the contract, the plaintiff-respondent buyers entered into possession and commenced payments to the defendant-appellant sellers upon the contract and to First Security Bank, the first mortgage holder. Subsequent to the plaintiff-respondent buyers taking possession, the lawsuit against the defendant, Bruce E. Wright, was dismissed (Ex. 125:13-21) and thereafter the property was

reconveyed out of the oral trust back to the defendant-appellant sellers (Ex. 13, Rec. 126:2-11, 152:4-20).

It is uncontroverted and undisputed that the purpose of the conveyance to Bruce Wright's parents was to protect the title so that it could be conveyed to the plaintiff-respondent buyers. The Court in this case ruled that because the defendant-appellant sellers did not have title to the property in their own name at the time of execution of the contract, and their failure to disclose such fact to the plaintiff-respondent buyers, such facts constituted a breach of a contract entitling the plaintiff-respondent buyers to rescind the contract and entitling them to a refund of their monies paid, less the rental value of the property during the period of occupancy.

In 1953, this Court spoke on just such a matter as to the necessity of the seller having title during the period of the purchase contract. The facts in that case, Woodard v. Allen, 1 Ut 2d 220, 265 P.2d 398, at page 22, were:

Plaintiffs deraigned title to part of the property by mesne conveyance, links in the chain of which were tax deeds from the county, which body, to eliminate doubt as to their validity, prosecuted quiet title suits, which were determined to be ineffective by the trial court because of defective affidavits for publication. The trial court concluded, for that reason, that plaintiffs had no marketable title and hence no right to relief.

The Supreme Court reversed the decision of the trial court and ruled that the evidence failed to establish by clear and convincing proof the elements necessary to establish deceit in

regard to the executing of the contract and entitling buyers to rescind. The Court saying at page 221:

We believe defendant's objections were conceived after the stop-payment, and were designed to avoid a bargain regretted.

The attack in that case was on the marketability of the title of the seller in the property during the period of the contract. The Court held at page 222:

Defendant's attack on the marketability of plaintiff's title was premature, since, under the authorities, that fact is determinable, not as of the date of execution of the contract but as of the time a vendee tenders that which, under the contract, would require the vendor to transfer not only marketable title, but the title which the latter agreed to convey. (Emphasis added)

Even though the title had been disputed by the buyers, the Court went on to say:

Under these facts, plaintiffs were not obliged to prove marketable title simply because defendant raised the point.

In rendering its decision in the case now before the Court, the trial court relied heavily upon the decision in Leavitt v. Blohm, 11 Utah 2d 220, 357 P.2d 190 (1960). The facts in Leavitt vs. Blohm, were that Hancocks sold to Smiths, who sold to Kartchner, who sold to Verda Lynn, who sold to Blohm. After the buyer, Blohm, entered into possession and made a down-payment and commenced monthly payments, the seller Verda Lynn assigned her seller's interest in the contract to Leavitt. Thereafter, Hancocks, who were the original sellers brought an action against all parties, including Blohm, charging de-

fault in the original contract, seeking cancellation thereof and forfeiture of payments as liquidated damages. Before trial, Hancocks renegotiated a new contract with Kartchner and a Cutler and thereafter, Vineyard Investment Company purchased the interest of Kartchner and Cutler. Leavitts claimed that they held the controlling interest in the corporation. However, there was no privity of contract between Vineyard Investment Company and the buyer Blohm. On the trial of the matter, the trial court held that the Leavitts had rendered themselves unable to perform under the contract with Blohm and that the failure of Leavitts to maintain the payments under the contract with Hancocks had disabled them from performing their part of the contract. Such acts relieved the buyers from further obligation under the contract. This Court, in that case held at page 223:

[W]e acknowledge our accord with the rule relied upon by the plaintiffs that the vendor in a real estate contract is generally not obliged to have full and clear marketable title at all times during the pendency of his contract of sale because, ordinarily, title need not be conveyed until the final payment is made or tendered; and we further agree that the purchaser cannot use a claimed deficiency in title as an excuse for refusing to keep a commitment to purchase property, as was attempted in the case of Woodard v. Allen. (Emphasis added)

The Court then went on to state in Leavitt v. Blohm, supra, that those facts did not fall under the general rule. The Court went on to say:



The fact is that the Leavitts had attempted abortively to bring their contract into good standing, but had failed. Mrs. Blohm knew that unless the Leavitts made their payments she was exposed to the risk of a judgment in the suit by the Hancocks, not only for possession of the property, but also for treble damages and substantial attorney's fees. (Emphasis added)

The Court went on to say:

We see no impropriety in the trial court's view that where the Leavitts had permitted their interest in the property to become involved in such a way that the buyer did not have the quiet and peaceable enjoyment of it, coupled with the further fact that the circumstances justified forebodings that they would not be able to extricate themselves from their difficulties and be in a position to convey title, she was not obliged to continue payments, but could take such measures as seemed necessary and prudent to protect herself. (Emphasis added)

That is not the case now before the Court. The parties had not jeopardized their ability to deliver title but had enhanced their ability to convey the title by preventing the attachment of the properties that were to be conveyed and delivered upon completion of payments by the plaintiff-respondent buyers. The conveyance was an oral trust, only for the purpose of protection, and was reconveyed upon the conclusion of the litigation against Bruce E. Wright. No indication or involvement similar to the Leavitt v. Blohm case was present in this case as the payments were kept current upon the first mortgage. In fact, upon the default by the plaintiff-respondent buyers, the defendant-appellant sellers met the payments to First Security Bank to protect the property for their own interest and as a protection against loss to either party in this case. In Leavitt v. Blohm,

the Court pointed out that the sellers of the property had endeavored to bring their contract of purchase current but had been unable to do so and that the buyer Blohm had been joined in the lawsuit of foreclosure by the Hancocks placing their title in jeopardy. These facts demonstrated the inability of the sellers of the property to convey title upon completion of payments by the buyer.

In the case now before the Court, there was no such jeopardy of title because the property was being held under the oral trust by the sellers parents so that title could be conveyed upon completion of the purchase by the buyers. In fact, long before such time of conveyance would have arrived under the terms of the contract, the defendant-appellant sellers had terminated the litigation with Western General Dairies favorable to themselves and had obtained the reconveyance of the property to themselves by the parent-trustees holding under the oral trust.

The trial court holding that the failure to disclose the conveyance under the oral trust was a breach of contract is contrary to the pleadings and the evidence. There are no allegations in the pleadings of any failure on the part of defendant-appellants to perform any duty that they were to perform under the contract. The claim is that they did not have title at the time of the execution of the contract and the failure to disclose this entitled plaintiff-respondents to

rescind the contract. This is in the nature of fraud in the inducement or failure to disclose that which should have been disclosed. Such would require not only pleadings but a clear and convincing proof of deceit. There is no evidence presented to the trial court of any deceit or of any contradiction to the defendant-appellants' evidence that the conveyance was in the nature of a trust for protection of the property and not in derogation of the beneficial ownership and rights of the defendant-appellants to be able to consummate their contract at the conclusion of the payments by the plaintiff-respondent buyers.

It is significant that the testimony of the plaintiff-respondents shows that when they discovered the fact that the defendant-appellant sellers did not have title to the property, they made no inquiries to determine the conditions of the parents of Bruce E. Wright holding title to this property or whether, in fact, if Bruce E. and Shonnie Wright, the defendant-appellants, were purchasing the property under a contract from the parents. As shown in the testimony of Mr. Neves (Rec. 114:13-24).

Q. Did you ever ask them whether or not they had a means by which, when you had finished your payments, they would be able to convey title to you?

A. No.

Q. You never asked them what the reason for conveying the property to Mr. Wright's parents were?

A. No.



Q. You never inquired as to whether Mr. Wright, Sr. was holding the property so they would be in a position to convey title to you?

A. No.

This Court has consistently held that it is not the obligation of the seller to have title at the time of the execution of the contract but at the time of the performance.

In 1971, in Marlowe v. Radmall, 26 Utah 2d 124, 485 P.2d 1402, the Court reiterated again its consistent holding on title. The facts in the Marlowe v. Radmall case are that the buyers entered into a contract for purchase of land with a fruit stand on it. Thereafter, they went to the assignee of the seller's interest and surrendered the keys to the fruit stand and declared that they were surrendering the property and abandoning the property. The seller made no protest. Thereafter, the property was mortgaged by seller to a savings and loan association, the mortgage was foreclosed and the defendant-buyers and plaintiff-sellers were both joined in the foreclosure. The plaintiff-sellers did not defend the suit and the mortgage was foreclosed. The Court held that based upon the failure of the seller to protect the title of the property and its own inability because of the foreclosure to convey upon completion of payments by buyers that it lost or encumbered its ownership so that it would not be able to fulfill its contract. This decision is not in contradiction to the prior decisions but demonstrates that in order for a buyer to successfully assert the inability of the seller

to convey title, as an excuse for the performance by the buyer there must be some showing of actual loss of title to the seller or an encumbrance that jeopardizes the seller's ability to deliver title upon completion of payments by the buyer. In the case now before the Court, the conveyance under an oral trust to the parents was for the purpose of protecting the title against the threatened attachment. The conveyance into trust, the dismissal of the suit and the reconveyance did not jeopardize the ability of the sellers here to deliver title upon completion of payments by plaintiff-respondent buyers but in fact, protected that very capability of delivering title upon payment.

This issue was again addressed by the Utah Supreme Court in 1973 in Corporation Nine v. Taylor, and Taylor v. Corporation Nine, consolidated cases, 30 Utah 2d 47, 513 P.2d 417, wherein the Court reaffirmed the law at page 53 as follows:

First, the law does not require the vendor to have clear and marketable title at all times during the performance of his contract, and is not ordinarily so obliged until the time comes for him to perform. The buyer should not be heard to complain unless it appears that it will be impossible or at least highly unlikely that the seller will be able to perform his contract when he is called upon to do so, which we do not see as the situation here. (Emphasis added)

It is significant in this case that when the plaintiff-respondent buyer, Neves, who was working in Salt Lake City and commuting from Fillmore, Utah, discovered that the title was held in the name of the parents of the defendant-appellant

sellers, plaintiff-respondents made no inquiry whatsoever to determine why the parents were holding the title rather than the sellers with whom they had entered into contract (Rec. 114:13-16, 119:9-16). Instead they unilaterally served the notices of abandonment of the property and refused to make further payments (Exs. 6, 7 and 8). They immediately ceased making further payments on the contract and abandoned the property. Upon such abandonment, defendant-appellants recommenced payments on the first mortgage. The parties stipulated that the defendant-appellant sellers should attempt to sell the property. This was eventually accomplished, but the sale was at a price approximately \$3,000.00 less than the price set forth in Exhibit 9 because of damage allegedly caused by plaintiff-respondents and the change in the market during the interim period. Under these circumstances, the trial court erred in not recognizing that the conveyance under the oral trust did not jeopardize the title or the ability of the defendant-appellant sellers to convey title upon completion of payments. The trial court further did not acknowledge that the responsibility of the seller is to be able to convey title upon completion of payments, not to maintain ownership of the title during the entire term of the purchase agreement. It would be a rare circumstance in modern day transactions when the seller of property had title in its own name during the entire time the Uniform Real Estate Contract was in force. This writer alleges that it is common knowledge and this

Court can take judicial notice that under most circumstances, the seller of property has only a buyer's interest to sell under his own purchase contract and he will not have title until mortgages running ahead of him have been paid off or he has completed his own purchase contract in the course of payments received from his buyer. The trial court was in error in ruling that the defendant-appellant sellers had jeopardized their title giving the plaintiff-respondent buyers the right to rescind the contract and receive a refund of amounts paid.

## POINT II

### THE TRIAL COURT ERRED IN FAILING TO GRANT THE DEFENDANT-APPELLANT SELLERS' COUNTERCLAIM FOR DAMAGES

At the time of the abandonment of the property by the plaintiff-respondent buyers, the plaintiff-respondent buyers ceased all payments under the contract. By such precipitous act in abandoning the property and ceasing payments without inquiry as to the status of title, the proper consummation of the transaction was foreclosed. Simple forthright inquiry could have resolved such question of title. As pointed out in Walker v. Bintz and Shaw, Inc., 3 Utah 2nd 162, 280 P.2d 767 (1955) at page 164:

Even assuming the earnest money agreement contemplated furnishing of marketable title as of July 11, which we need not decide, under circumstances such as are extant here, the authorities generally allow a seller a reasonable time within which to perfect title--a possibility which the plaintiff by repudiation foreclosed.

A reasonable inquiry could have resolved the entire matter without the ensuing losses to either party.

The defendant-appellant sellers then commenced payments upon the first mortgage to First Security Bank, entered into possession to repair the property and sold it under terms stipulated by the parties. In so doing, the defendant-appellant sellers suffered a substantial loss in cost of repair, payments made to First Security Bank during the period of the default by the plaintiff-respondent buyers and cost to restore the property to saleable condition. The trial court erred in not granting those damages as pointed out in Woodard v. Allen, supra, at page 222:

The plaintiff in this case has alleged facts which would justify entry of judgment for any amount found to be due from defendant to plaintiff because of failure to pay installments past due.

The plaintiff in this case has alleged facts which would justify entry of judgment for the amounts found to be damages by reason of plaintiff-respondents default under the contract for failure to pay installments due and attorney's fees. In the case before this Court, the defendant-appellant sellers put on evidence as to the amount of damages, costs to repair and restore, costs of sale and diminution of sales price as a result of the admitted refusal of the plaintiff-respondent buyers to make further payments under the contract. Under these circumstances, the defendant-appellant sellers are entitled to judgment for their damages caused by the breach

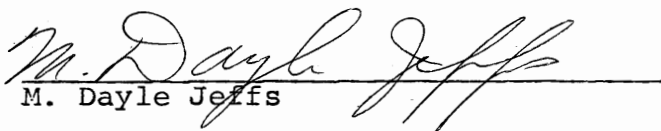


of contract by the plaintiff-respondent buyers.

CONCLUSION

Appellants assert that the facts which are not in dispute entitle them a decision of this Court reversing the trial court and remanding the case to the trial court for determination of the damages appellants have suffered as a result of the breach of contract by the plaintiff-respondents.

Respectfully submitted:

  
M. Dayle Jeffs

CERTIFICATE OF MAILING

I hereby certify that 2 true and correct copies of the foregoing Brief of Appellant to Keith E. Sohm, 23rd Floor University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, by placing a copy of the same in the United States Mail, postage prepaid, this 16th day of July, 1980.

